

**CUYAHOGA COUNTY METROPOLITAN HOUSING AUTHORITY**  
**ADMINISTRATIVE PLAN**  
**FOR THE**  
**HOUSING CHOICE VOUCHER PROGRAM**  
**2018**

Approved by the Board of Commissioners October 2017

Effective January 1, 2018

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## **CHAPTER 1-STATEMENT OF POLICIES AND OBJECTIVES**

### **A. INTRODUCTION**

The Housing Choice Voucher Program (HCVP) was enacted as part of the Housing and Community Development Act of 1974, which re-codified the U.S. Housing Act of 1937. The Act has been amended from time to time, and its requirements, as they apply to the HCVP Tenant-Based Assistance Program, are described in and implemented throughout this Administrative Plan. The HCVP Tenant-Based Assistance Programs are federally funded and administered for Cuyahoga County by the Cuyahoga Metropolitan Housing Authority (CMHA) through its HCVP.

Administration of the HCVP and the functions and responsibilities of the Cuyahoga Metropolitan Housing Authority's (CMHA) staff shall be in compliance with CMHA's Personnel Policies and Procedures Manual and the Department of Housing and Urban Development's (HUD) HCVP Regulations as well as all Federal, State and local Fair Housing Laws and Regulations.

### **B. JURISDICTION**

The jurisdiction of CMHA is Cuyahoga County, exclusive of Chagrin Falls Township.

### **C. HOUSING AUTHORITY MISSION STATEMENT**

CMHA's mission is to be a leader in providing safe, quality, and affordable housing for individuals and families of Cuyahoga County.

### **D. PURPOSE OF THE PLAN [24 CFR 982.54]**

The purpose of the Administrative Plan is to establish policies for carrying out the program in a manner consistent with HUD requirements and local goals and objectives contained in the Agency Plan.

CMHA is responsible for complying with all changes in HUD regulations. If such changes conflict with this Plan, HUD regulations will have precedence. CMHA will revise this Administrative Plan as needed to comply with changes in HUD regulations. The original Plan and any changes must be approved by the Board of Commissioners of the Agency, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

This Administrative Plan is a supporting document to the CMHA Agency Plan, and is available for public review as required by 24 CFR 903.17.

Applicable regulations include:

24 CFR Part 5: General Program Requirements

24 CFR Part 8: Nondiscrimination

24 CFR Part 100: Fair Housing

Local rules that are made part of this Plan are intended to promote local housing objectives consistent with the intent of the Federal housing legislation.

#### **E. ADMINISTRATIVE FEE RESERVE [24 CFR 982.54(d) (21)]**

An Administrative reserve is maintained by CMHA. CMHA is to credit to the administrative reserve the total of the amount by which the program fees paid during CMHA's fiscal year exceed the program administrative expenses, plus interest earned on the administrative reserve account. The use of surpluses in the administrative reserve account generated by the Housing Choice Voucher Program may only be used to cover expenses related to the Housing Choice Voucher Program.

#### **F. RULES AND REGULATIONS [24 CFR 982.52]**

This Administrative Plan is set forth to define CMHA's local policies for operation of the housing programs in the context of Federal laws and Regulations. All issues related to HCVP not addressed in this document are governed by such Federal Regulations, HUD Memos, Notices and guidelines, or other applicable law. The policies in this Administrative Plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

#### **G. TERMINOLOGY**

The Cuyahoga Metropolitan Housing Authority is referred to as "CMHA" throughout this document.

"Family" is used interchangeably with "Applicant" or "Participant" and can refer to a single person family.

"Tenant" is used to refer to participants in terms of their relation to landlords.

"Landlord" and "owner" are used interchangeably.

"Non-citizens Rule" refers to the regulation effective June 19, 1995 restricting assistance to U.S. citizens and eligible immigrants.

The "Housing Choice Voucher Program" refers to the merged program effective as of 10/1/99.

"HQS" means the Housing Quality Standards required by regulations as enhanced by CMHA.

"Failure to Provide" refers to all requirements in the first Family Obligation. See "Denial or Termination of Assistance" Chapter 15.

Throughout this Administrative Plan, where time deadlines are expressed in terms of days, the Plan refers to calendar days, not business days.

Throughout this Administrative Plan, where notice is required to be given, the notice must be in writing. An exception to the requirement that notice be given in writing may be made if requested as a Reasonable Accommodation.

See Glossary for other terminology.

## **H. FAIR HOUSING POLICY [24 CFR 982.54(d) (6)]**

It is the policy of CMHA to administer the HCV program in compliance with all applicable fair housing and other civil rights requirements, including the authorities cited at 24 CFR 5.105(a). This includes but is not limited to, the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, titles II or III of the Americans with Disabilities Act, and HUD's Equal Access Rule. CMHA will affirmatively further fair housing by (1) examining programs or proposed programs, (2) identifying any impediments to fair housing choice within those programs, (3) address those impediments in a reasonable fashion in view of the resources available, (4) work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require CMHA's involvement, and (5) maintain records reflecting these analyses and action, with some limited exceptions found in 24 CFR 903.2(b)(2).

CMHA shall not deny any family or individual the equal opportunity to apply for or receive assistance under the Housing Choice Voucher Program on the basis of race, color, sex, sexual orientation, gender identity, religion, creed, national or ethnic origin, age, familial status, handicap or disability.

To further its commitment to full compliance with applicable Civil Rights laws, CMHA will provide Federal/State/local information to Voucher holders regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act. Such information will be made available during the family briefing session, and all applicable fair housing information and discrimination complaint forms will be made a part of the Voucher holder's briefing packet and available upon request at the front desk.

Except as otherwise provided in 24 CFR 8.21(c)(1), 8.24(a), 8.25, and 8.31, no individual with disabilities shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination because CMHA's facilities are inaccessible to or unusable by persons with disabilities. Posters and housing information are displayed in locations throughout CMHA's office in such a manner as to be easily readable from a wheelchair.

CMHA's offices are accessible to persons with disabilities. Accessibility for the hearing impaired is provided by the Cleveland Hearing and Speech Center, or other comparable agency and will be provided through Ohio Relay service. CMHA fully complies with and administers its housing programs in accordance with Federal equal opportunity and fair housing laws.

CMHA acknowledges, upholds and acts in accordance with procedures that accomplish the following equal opportunity in housing objectives:

**1. Objective I: Outreach to Low-Income Families**

When there is outreach for applicants, outreach will be coordinated with local social service agencies to ensure a cross section of the eligible population.

**2. Objective II: Housing Opportunities for Families Outside Areas of Low Income and Minority Concentration**

Activities include identification and outreach to owners in non-impacted areas, and maintaining a list of available properties for use by participants. Counseling will include, but not be limited to, information on local, State and Federal fair housing laws, information about housing opportunities beyond impacted areas, and procedures for the use and submission of fair housing complaints (i.e. Fair Housing and Discrimination Complaint Form: HUD-903).

**3. Objective III: Serving and Assisting Families Alleging Discrimination**

It is the policy of CMHA to provide adequate information to tenant-based assistance holders regarding discrimination, indicating recourse available to them if they are victims of discrimination. Such information will be made available to program participants during the HCVP briefing. Discrimination complaint forms will be made part of the briefing packet.

**I. AFFIRMATIVELY FURTHERING FAIR HOUSING IN THE FAMILY SELF-SUFFICIENCY (FSS) PROGRAM**

CMHA affirmatively furthers fair housing in its Family Self-Sufficiency Program (FSS) (as well as its other housing programs). Reasonable steps CMHA will take to affirmatively further fair housing in the FSS Program include:

1. Advertising widely in the community for any FSS Coordinator positions that become available. Positions will be advertised on CMHA's website (CMHA.net) so that they are accessible to all segments of the population nationwide.
2. The FSS program will be marketed to all eligible persons, including persons with disabilities and persons with limited English proficiency. CMHA periodically utilizes advertisements, announcements and program descriptions to market its programs. CMHA has a published Limited English Proficiency Plan on its website. Translation services are available through an outside vendor and paid by CMHA. In addition, CMHA employs several bilingual staff. CMHA also provides sign language services to hearing impaired participants upon request.
3. Application intake, re-examination appointments, voucher/contract issuance, FSS

appointments and informal hearings are conducted in accessible office spaces. In addition, CMHA provides home visits upon request as a reasonable accommodation to persons with disabilities.

4. Referrals to fair housing agencies are made upon a participant's request.
5. The HUD fair housing form is provided to applicants in the applicant briefing packet. In addition, the fair housing form is made available upon request. Applicants/participants are provided assistance in filling out the form and are referred to HUD for additional information and assistance, including providing the toll-free number for the Housing Discrimination Hotline: 1-800-669-9777.
6. CMHA has a goal of homeownership and housing mobility. Staff will recruit landlords in opportunity neighborhoods and will provide advice and assistance to participants. Record-keeping covers race, ethnicity, familial status and disability status of program participants.

#### **J. REASONABLE ACCOMMODATIONS POLICY [24 CFR 100.202]**

CMHA is committed to ensuring that its policies and procedures do not deny individuals with disabilities the opportunity to participate in or benefit from its programs. If an individual with a disability requires an accommodation, CMHA will provide such an accommodation unless doing so would result in a fundamental alteration in the nature of the program, would pose an undue financial and administrative burden, or would be unreasonable. To demonstrate that a requested accommodation may be necessary, there must be a link between the requested accommodation and the individual's disability. An accommodation will not be considered reasonable if it constitutes a fundamental alteration of CMHA's programs, causes an undue financial and administrative burden, or, even with an accommodation, there is a direct threat to the health or safety of other individuals or threat of substantial physical damage to the property of others.

If a person with a disability that is not readily apparent or known requires an accommodation in order to use or enjoy their housing or access our programs, the person will be provided the appropriate application and verification form. Once the person's documentation is complete, the 504/ADA Coordinator will present the request to the Reasonable Accommodation (RA) Committee for a determination. The RA Committee's primary function is to review reasonable accommodation requests presented by the Section 504/ADA Team and to then make a determination.

Requests for home visits may be required to be considered by the RA Committee, or can be made at the discretion of HCVP management.

It is the policy of CMHA to be service-directed in the administration of housing programs, and to exercise and demonstrate a high level of professionalism while providing housing services to

families.

A person with a disability must first ask for a specific exception, change, or adjustment to a rule, policy, practice or service as an accommodation of their disability. CMHA's policies and practices will be designed to provide assurances that persons with disabilities will be given reasonable accommodations, upon request, so that they may fully access and utilize the housing program and related services. The availability of requesting an accommodation will be made known by including notices on CMHA forms and letters. This policy is intended to afford persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those who do not have disabilities and is applicable to all situations described in this Administrative Plan including when a family initiates contact with CMHA, when CMHA initiates contact with a family, including when a family applies, and when CMHA schedules or reschedules appointments of any kind.

A person with a disability is one who has:

- A physical or mental impairment that substantially limits one or more of the major life activities of an individual;
- A record of such impairment; or
- Regarded as having such impairment.

Rehabilitated former drug users and alcoholics may be eligible for a reasonable accommodation, however, addiction caused by current illegal use of a controlled substance is not covered. In accordance with 24 CFR 5.403, individuals are not considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence.

The phrase “physical or mental impairment” includes (but is not limited to):

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental cognitive impairment, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, cognitive impairment, emotional illness, drug addiction and alcoholism.

“Major life activities” includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

“Has a record of such impairment” means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

“Is regarded as having an impairment” is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as CMHA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

- Current illegal drug users
- People whose alcohol uses interferes with the rights of others
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the HCV program.

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this definition of disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the \$400 elderly/disabled household deduction, the \$480 dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a person with a disability under the HCV program, yet an accommodation is needed to provide equal opportunity.

Once the person's status as a qualified person with a disability is confirmed, other than in cases where the disability-related need is apparent or already known to CMHA, CMHA will require that a professional third-party knowledgeable to make the assessment provide written verification that the person needs the specific accommodation due to their disability and the change is required for them to have equal access to the housing program.

**Specific accommodations may include but are not limited to:**



**Live-in-Aide (LIA)** – A LIA is a person who resides with a person with a disability in the same unit in order to care for the person. In addition, the following requirements must be met:

- Must be essential to the care and well-being of the person;
- Must maintain their residence in the subsidized unit of the person whose disability requires the presence of the aide;
- Cannot be obligated for the financial support of the person with a disability;
- Would not live in the unit other than to provide the necessary supportive services;
- Is capable of serving as a LIA (possesses a level of experience capable of rendering the duties reasonably expected for providing the personal care needed for the disabled member);
- Must be at least 18 years of age;
- Cannot be a current member of the household; and
- Is subject to screening for criminal activity or any other conduct that would otherwise bar the person from admission to CMHA's programs.

The live in aide must be identified, determined eligible and added to the family composition. Only one bedroom will be provided for live in aide regardless of the number of family members. However, a live in aide and family members must not exceed the HQS occupancy standards. In cases where the family of the LIA causes a violation of the HQS occupancy standard, the head of household will be notified that while they are approved for a LIA, they will need to seek another LIA or unit that does not cause the HQS violation of the occupancy standard.

**Space to accommodate special health care apparatus.** An additional bedroom provided to accommodate medical equipment and/or supplies will increase the subsidy standard at the next annual reexamination or move; whichever comes first. An initial list of medical equipment being housed in the additional bedroom must be provided by the head of the household and at each annual reexamination. Annual/biennial inspections of the unit will include verification of equipment and/or supplies being housed in the additional bedroom.

**Exception to Underhoused and Overhoused Policy.**

If a unit does not meet HQS space standards, CMHA will consider a family's Reasonable Accommodation request and notify the family of the circumstances under which an exception may be granted such as:

- If a family with a disability is underhoused in an accessible unit.
- If a family requires an additional bedroom because of a disability which has been verified by CMHA.

**Exception to Payment Standard.**

On a case-by-case basis, CMHA may approve a payment standard of up to 120% of FMR if required as a reasonable accommodation for a family that includes a person with a disability. CMHA must perform a rent reasonableness analysis and maintain documentation that the unit has features required to meet the needs of the person with disabilities. The following criteria will be used:

- 1.) Unit adaptations necessitated by the disability; or
- 2.) The unit's proximity to caregivers or service providers.

If CMHA finds that the requested accommodation is not reasonable, CMHA will deny the request and may present an alternate accommodation that will still meet the needs of the person. A requested accommodation is not reasonable where:

- It would cause an undue administrative and financial burden; or
- It would fundamentally alter the nature of CMHA's program; or
- Even with the accommodation, there is a direct threat to the health or safety of other individuals, or threat of substantial physical damage to the property of others.

CMHA will provide a written decision to the person requesting the accommodation after receiving affirmation from the person's knowledgeable professional that (a) the individual making the request is a person with a disability; and (b) that the individual needs the requested accommodation because of his/her disability. If their requested accommodation is initially denied by CMHA, the person may then request a hearing within 15 days of the date of the Committee's decision. The hearing will be conducted according to the Hearing Officer guidelines.

Reasonable accommodations will be made at hearings for persons with a disability that require an advocate or accessible offices. A designee will be allowed to provide some information, but only with the permission of the person with the disability.

All CMHA mailings will be made available in an accessible format upon request, as a reasonable accommodation.

## **K. VERIFICATION, OUTREACH AND APPLYING FOR ADMISSION**

### **Verification of Disability**

CMHA will verify disabilities under definitions in the Fair Housing Amendments Act of 1988, Section 504 of the 1973 Rehabilitation Act, and Americans with Disabilities Act.

### **Outreach**

Outreach efforts will include notification of agencies serving persons with disabilities as well as all other media and agencies listed in CMHA's Administrative Plan regarding public notices. (See section B on Opening/Closing of Application Taking in "Applying for Admission", Chapter 3.)

### **Applying for Admission**

The full application is completed at the eligibility appointment in the applicant's own handwriting, unless assistance is needed, or a request for accommodation is received from a person with a disability. Applicants will then be interviewed by CMHA staff to review the information on the full application form.

Verification of disability as it relates to 504, Fair Housing, or ADA reasonable accommodation will be requested at this time. The full application will also include questions asking all applicants whether reasonable accommodations are necessary.

#### **L. LIMITED ENGLISH PROFICIENCY**

The Housing Authority will implement a Language Assistance Plan (LAP) for Limited English Proficient (LEP) persons consistent with the federal guidelines issued by the U.S. Department of Housing and Urban Development (HUD). The purpose of the Plan is to ensure that those with limited proficiency in the English language can effectively participate in and benefit from CMHA's housing programs. LEP persons are defined as individuals who do not speak English as their primary language and have limited ability to read, write, speak or understand English.

CMHA will use the four-factor analysis to determine the level of access needed for LEP persons who speak a particular language. The four factors are: 1.) The number proportion of LEP persons eligible to be served or likely to be encountered by the public housing or housing choice voucher programs; 2.) The frequency with which LEP persons come into contact with these programs; 3.) The nature and importance of these programs, activities or services provided by the programs to people's lives; and 4.) The resources available to CMHA and costs. Balancing these four factors will result in meaningful access by LEP persons to critical services while not imposing undue burdens on CMHA.

#### **M. SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)**

CMHA operates its housing assistance program with efficiency and can demonstrate to HUD auditors that CMHA is using its resources in a manner that reflects its commitment to quality and service. CMHA policies and practices are consistent with the areas of measurement for the following HUD SEMAP indicators:

1. Selection from the Waiting List
  2. Reasonable Rent
  3. Determination of Adjusted Income
  4. Utility Allowance Schedule
  5. HQS Quality Control Inspections
  6. HQS Enforcement
  7. Expanding Housing Opportunities
  8. Payment Standards
  9. Annual Re-examinations
  10. Correct Tenant Rent Calculations
  11. Pre-Contract HQS Inspections
  12. Annual/Biennial HQS Inspections
  13. Lease-up
  14. Family Self-Sufficiency Enrollment and Escrow Account Balances
- Bonus: Deconcentration indicator

Supervisory quality control reviews will be performed by a CMHA supervisor or other qualified person other than the person who performed the work, as required by HUD, on the following SEMAP factors:

- Selection from the waiting list
- Rent reasonableness
- Determination of adjusted income
- HQS Enforcement
- HQS Quality Control

The annual sample of files and records will be drawn in an unbiased manner, leaving a clear audit trail.

The minimum sample size to be reviewed will relate directly to each factor.

#### **N. RECORDS FOR MONITORING CMHA PERFORMANCE**

In order to demonstrate compliance with HUD and other pertinent regulations, CMHA will maintain records, reports and other documentation for a time that is in accordance with HUD requirements; and in a manner that will allow an auditor, housing professional or other interested party to follow, monitor and or assess CMHA's operational procedures objectively and with accuracy; and in accordance with SEMAP requirements and internal supervisory audits. (See Chapter 21, Records Retention Policy.)

#### **O. PRIVACY RIGHTS [24 CFR 982.551 and 24 CFR 5.212]**

Applicants and participants, including all adults in their households, are required to sign the HUD 9886 Authorization for Release of Information. This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD/CMHA will release family information.

CMHA's policy regarding release of information is in accordance with State and local laws which may restrict the release of family information.

CMHA's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files will be stored in a secure location which is only accessible by authorized staff.

CMHA staff will not discuss family information contained in files unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

All files must be signed for when removed from the secured file storage area.

Solely for the purpose of tenant screening, and if requested [982.307(b)(i)(ii)]:

CMHA must give the owner:

1. The family's current and prior address (as shown in CMHA records); and
2. The name and address (if known to CMHA) of the landlord at the family's current and prior address.

CMHA will make exceptions to this policy if the family's whereabouts must be protected due to domestic violence or witness protection program. CMHA will inform owners that it is the owner's responsibility to determine the family's suitability as a tenant. Owners will be encouraged to screen prospective families.

#### **P. CONFIDENTIALITY – VIOLENCE AGAINST WOMEN ACT**

All information provided to the owner, manager, or public housing agency pursuant to the certification requirement including the fact that an individual is a victim of domestic violence, dating violence, sexual assault or stalking, shall be retained in confidence by the owner, manager, or public housing agency, and shall neither be entered into any shared database nor provided to any related entity, except to the extent that disclosure is:

- 1) Requested or consented to by the individual in writing;
- 2) Required for use in an eviction proceeding or termination of assistance; or
- 3) Otherwise required by applicable law.

#### **Q. FAMILY OUTREACH [24 CFR 982.206]**

CMHA will publicize and disseminate information to make known the availability of housing assistance and related services for very low income families when the waiting list is open. When CMHA's waiting list is open, CMHA will publicize the availability and nature of housing assistance for very low income families in a newspaper of general circulation, minority media, and by other suitable means. Notices will also be provided in Spanish.

To reach persons who cannot read the newspapers, or persons with sight impairments, CMHA will distribute fact sheets to the broadcasting media, and initiate personal contacts with members of the news media and community service personnel. CMHA will also utilize public service announcements.

#### **R. OWNER OUTREACH [24 CFR 982.54(d) (5)]**

CMHA makes a concerted effort to keep private owners informed of program requirements in the tenant-based program, which are designed to make the program more attractive to owners.

CMHA encourages owners of decent, safe and sanitary housing units to lease to HCVP families.

CMHA conducts periodic meetings with participating owners to improve owner relations and to recruit new owners.

CMHA provides listings of available affordable housing through links at [www.cmha.net](http://www.cmha.net). The listings are updated on a continual basis, and provide unit information by accessibility, location and bedroom size.

CMHA will provide lists of available housing in all neighborhoods within its jurisdiction to ensure greater mobility and housing choice to very low income households. The lists of units will be provided at the front desk, on the website, mailed on request, and provided at briefings.

The staff of CMHA initiates personal contact with private property owners and managers by conducting formal and informal discussions and meetings.

Information is available to acquaint owners and managers with the opportunities available under the program. Information is located on the CMHA website at [www.cmha.net](http://www.cmha.net).

CMHA has active participation in a community-based organization(s) comprised of private property and apartment owners and managers.

CMHA will actively recruit property owners with property located outside areas of minority and poverty concentration.

CMHA periodically evaluates the demographic distribution of assisted families to identify areas within the jurisdiction where owner outreach should be targeted. The purpose of these activities is to provide more choice and better housing opportunities to families. Voucher holders are informed of a broad range of areas where they may lease units inside CMHA's jurisdiction and given a list of landlords or other parties who are willing to lease units or help families who desire to live outside areas of poverty or minority concentration.

CMHA has:

- 1) Developed working relationships with owners and other advocates.
- 2) Established contact with civic, charitable or neighborhood organizations which have an interest in housing for low-income families and public agencies concerned with obtaining housing.

#### **S. CONDUCTING BUSINESS IN ACCORDANCE WITH CORE VALUES AND ETHICAL STANDARDS (24 CFR 982.161)**

CMHA requires compliance with all conflict of interest requirements of the Housing Choice Voucher Program as stated in the Housing Assistance Payments Contract (HAP Contract) form HUD-52641 Section 13 (Conflict of Interest). It is the policy of CMHA that its commissioners, officers, employees, and agents refrain from engaging in any activity, practice or act which conflicts with the interests of CMHA. All such persons shall disclose all known conflicts or potential conflicts to CMHA as provided herein. Such persons shall not become involved in any

business activities that give rise to an actual or an apparent conflict of interest without first disclosing such involvement to CMHA and subject to the approval of CMHA. All such persons have a duty to be entirely free from the influence or appearance of any undisclosed conflict of interest when they represent CMHA in any business dealing or make any recommendations which may influence an action of CMHA. Administrative and disciplinary remedies for violation of the requirements of this section are contained throughout this Administrative Plan, in Administrative Order 11 “Personnel Policies and Procedures Manual” which includes the Conflict of Interest Policy, and in other applicable CMHA Administrative Orders.

## **II. CHAPTER 2-ELIGIBILITY FOR ADMISSION**

### **A. INTRODUCTION**

This Chapter defines both HUD and CMHA's criteria for admission and denial of admission to the program. The policy of CMHA is to strive for objectivity and consistency in applying these criteria to evaluate the eligibility of families who apply. CMHA staff will review all information provided by the family carefully and without regard to factors other than those defined in this Chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by CMHA pertaining to their eligibility.

The eligibility for admission criteria apply to all programs that are referenced in this Plan, unless otherwise identified in the Plan or through HUD regulations.

### **B. ELIGIBILITY FACTORS [982.201]**

The Head of Household must have legal capacity to enter into a lease under State/local law. To be eligible for participation, an applicant must meet HUD's criteria, as well as any permissible additional criteria established by CMHA.

The HUD eligibility criteria are:

- An applicant must be a "family".
- An applicant must be income eligible.
- An applicant must furnish Social Security Numbers for all family members.
- An applicant must furnish Declaration of Citizenship or Eligible Immigrant Status and verification where required.
- At least one member of the applicant family must be either a U.S. citizen or have eligible immigration status before CMHA may provide any financial assistance.

Reasons for denial of admission are addressed in the "Denial or Termination of Assistance" Chapter 15.

The family's initial placement on the tenant-based (lottery) waiting list will be determined by random selection process. The initial order of all other waiting lists is by date and time of application. After initial placement, a family's position on any waiting list may be affected by any preference the family may claim and CMHA may verify. The family's eligibility for participation will be verified when a family is selected for issuance of a voucher.

All eligibility issues, including eligibility for local preferences are confirmed at final application processing.

### **C. FAMILY COMPOSITION [24 CFR 982.201(c)]**

A family includes but is not limited to the following regardless of actual or perceived sexual



orientation, gender identity, or marital status:

- 1) A family, married or unmarried, with or without children (the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size);
- 2) An elderly family;
- 3) A near-elderly family;
- 4) A disabled family;
- 5) A displaced family;
- 6) The remaining family member of a tenant family; and
- 7) A single person who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person.

### **Head of Household**

The head of household (HOH) is the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The HOH is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a co-head or spouse. The HOH must have the legal capacity to enter into a lease under state law.

### **Spouse of Head**

(Use only for proper application of the Noncitizen Rule 24 CFR part 5, subpart E.) Spouse means the marriage partner of the head-of-household, who, in order to dissolve the relationship, would have to obtain a legal divorce. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads, although these family types are permitted to receive assistance if they otherwise qualify.

### **Co-Head**

An individual in the household that is equally responsible for the lease with the Head of Household. A family may have a spouse or co-head, but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

### **Live-in-aides**

A family that consists of one or more elderly, near-elderly or disabled persons may request that CMHA approve a live-in-aide to reside in the unit and provide necessary supportive services for a family member who is a person with disabilities.

CMHA must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR Part 8 to make the program accessible to and usable by the family member with a disability.

The definition of a live-in-aide is recorded in 24 CFR Section 5.403 which states that a live-in-aide is a person who resides with one or more elderly persons, near elderly persons or persons with disabilities and who:

- 1) Is determined to be essential to the care and well-being of the persons;
- 2) Is not obligated for the support of the persons; and

- 3) Would not be living in the unit except to provide necessary supportive services.

It should be noted that the definition applies to a specific person. In accordance with this definition, a live-in-aide is not a member of the assisted family and is not entitled to the HCV as the remaining member of the tenant family.

A live-in-aide is treated differently than family members:

- Income of the live-in-aide will not be counted for purposes of determining eligibility or level of benefits.
- Live-in-aides are not subject to Non-Citizen Rule requirements.

Relatives are not automatically excluded from being live-in-aides, but they must meet all of the elements in the live-in-aide definition described above.

A live-in-aide may only reside in the unit with the prior approval of CMHA. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker. The verification provider must certify that a live-in-aide is essential for the care of the family member who is elderly, near-elderly (50-61) or disabled.

CMHA will approve a live-in-aide if needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability. Approval of a live-in-aide for reasonable accommodation will be in accordance with CFR 24 Part 8 and the reasonable accommodations section in Chapter 1 of this administrative plan. Only one bedroom will be provided for a live-in-aide.[24 CFR 982.316]

At any time, CMHA will refuse to approve a particular person as a live-in-aide or may withdraw such approval if:

- The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- The person commits felony level drug-related criminal activity or felony level violent criminal activity three years prior to being added as a live-in-aide.

The live-in-aide must attend all annual and special appointments and must show proof of residency at the subsidized unit after the first year of residency.

The head of household must report in writing, within 30 days, when the approved live-in-aide is no longer residing in the unit. CMHA will immediately process an interim re-exam to remove the LIA. If the family fails to identify a new LIA, approvable by CMHA, the voucher size will be reduced at the next annual re-exam.

The live-in-aide must be identified, determined eligible and added to the family composition. Only one bedroom will be provided for a live-in-aide regardless of the number of family members. However, a live-in-aide and family members must not exceed the HQS occupancy standards. In cases where the family of the LIA causes a violation of the HQS occupancy

standard, the head-of-household will be notified that while they are approved for a LIA, they will need to seek another LIA or unit that does not cause the HQS violation of the occupancy standard.

### **Split Households Prior to Voucher Issuance**

When a family on the waiting list breaks into two otherwise eligible families, only one of the new families may retain the original place on the waiting list. In those instances if there is no court determination, the Supervisor or Manager shall make the decision based on the following:

- Which of the two new family units has custody of dependent children
- Which family member applied as head of household
- The composition of the new family units, and which unit contains elderly or disabled members
- Whether domestic violence was involved in the breakup
- Which family members remain in the unit
- Recommendations of social service professionals or qualified professionals such as employees of the Division of Children & Family Services

### **Joint Custody of Children and Shared Parenting**

Children who are subject to a joint custody and shared parenting agreement but live with one parent at least 51% of the time will be considered members of the household. "51% of the time" is defined as 183 days of the year, which do not have to run consecutively.

If the custody agreement or shared parenting agreement does not identify the residential parent and there is no other document from the court or a social service agency that stipulates who is the residential parent then CMHA will request documentation to determine if the child (children) should be added to the voucher. For this purpose, the parent who has custody for school purposes will be considered the residential parent by CMHA.

## **D. INCOME LIMITATIONS [24 CFR 982.201(b), 982.353]**

To be eligible for assistance, an applicant must have an Annual Income at the time of admission that does not exceed the very low income limits for occupancy established by HUD.

A very low income family is a family whose income does not exceed 50 percent of the area median income, adjusted for family size.

CMHA will not admit families whose income exceeds 50 percent of the area median income except those families included in 24 CFR 982.201(b).

To be income eligible the family may be under the low-income limit in any of the following categories: [24 CFR 982.201(b)]

- A very low income family.
- A low-income family that is continuously assisted under the 1937 Housing Act. An applicant is continuously assisted if the family has received assistance under any 1937

Housing Act Program within 120 days of voucher issuance. Programs include any housing federally assisted under the 1937 Housing Act.

- A low-income family physically displaced by rental rehabilitation activity under 24 CFR part 511.
- A low-income non-purchasing family residing in a HOPE 1 or HOPE 2 project.
- A low-income non-purchasing family residing in a project subject to a homeownership program under 24 CFR 248.173.
- A low-income family or moderate income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165.
- A low-income family that qualifies for Voucher assistance as a non-purchasing family residing in a project subject to a resident homeownership program.

To determine if the family is income-eligible, CMHA compares the Annual Income of the family to the applicable income limit for the family's size. Families whose Annual Income exceeds the income limit will be denied admission and offered an Informal Review.

Portability: For initial lease-up at admission, families who exercise portability must be within the applicable income limit for the jurisdiction of the receiving PHA in which they want to live.

### **Students Applying for Assistance Alone**

Pursuant to the rule, Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937, No assistance shall be provided to any student who:

- (a) Is enrolled as a student at an institution of higher education, as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002);
- (b) Is under 24 years of age;
- (c) Is not a veteran of the United States military;
- (d) Is unmarried and does not have a dependent child;
- (e) Is not a person with disabilities, as such term is defined in section 3(b)(3)(E) of the 1937 Act and was not receiving assistance under section 8 of the 1937 Act as of November 30, 2005; and
- (f) Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income to receive assistance under section 8 of the 1937 Act.

## **E. MANDATORY SOCIAL SECURITY NUMBERS [24 CFR 5.216, 5.218]**

Families are required to provide verification of Social Security numbers for all family members. This requirement also applies to persons joining the family after admission to the program. Failure to furnish verification of Social Security numbers is grounds for denial or termination of assistance.

See Chapter 7-Verification Procedures

## **F. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS [24 CFR Part 5, Subpart E]**

In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. Individuals who are neither, may elect not to contend their status. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD.

For the citizenship/eligible immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

**Mixed Families.** A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed." Such applicant families will be given notice that their assistance will be pro-rated and that they may request a hearing if they contest this determination.

**All members ineligible.** Applicant families that include no eligible members are ineligible for assistance. Such families will be denied admission and offered an opportunity for an informal hearing.

**Non-citizen students.** Defined by HUD in the non-citizen regulations at 24 CFR 5.522. Not eligible for assistance.

**Appeals.** For this eligibility requirement only, the applicant is entitled to a hearing exactly like those provided for participants.

### **Verification of Status Before Admission**

CMHA will not provide assistance to families prior to the verification of eligibility for the individual or at least one member of the family pursuant to this section.

## **G. OTHER CRITERIA FOR ADMISSIONS [24 CFR 982.552(a)(b)(c)(e), 24 CFR 982.553(a)]**

CMHA may deny assistance for an applicant under the program because of the family's action or failure to act.

Denial of assistance for an applicant may include any or all of the following: denying listing on CMHA's waiting list, denying or withdrawing a voucher, refusing to enter into a HAP contract or approve a lease, and refusing to process or provide assistance under portability procedures.

CMHA must deny admission to the program for an applicant, or terminate program assistance for a participant, if any member of the family fails to sign and submit consent forms for obtaining information in accordance with 24 CFR part 5, subparts B and F of the HUD regulations.

The family must submit required evidence of citizenship or eligible immigration status.

Denial of Admission- See Chapter 15 Denial or Termination of Assistance

#### **H. TENANT SCREENING [24 CFR 982.307)]**

CMHA will take into consideration any of the criteria for admission described in Chapter 15, "Denial or Termination of Assistance".

CMHA will not screen family behavior or suitability for tenancy. CMHA will not be liable or responsible to the owner or other persons for the family's behavior or the family's conduct in tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before CMHA approval of the tenancy, CMHA will inform the owner that screening and selection for tenancy is the responsibility of the owner. The owner is responsible for screening families based on their tenancy histories, including such factors as: [24 CFR 982.307(a)(3)]

- Payment of rent and utility bills
- Caring for a unit and premises
- Respecting the rights of other residents to the peaceful enjoyment of their housing
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others; and
- Compliance with other essential conditions of tenancy.

CMHA will give the owner (if requested):

- The family's current and prior address as shown in CMHA's records; and
- The name and address (if known by CMHA) of the landlord at the family's current and prior address.

The same types of information will be supplied to all owners.

CMHA will advise families how to file a complaint if they have been discriminated against by an owner. CMHA will advise the family to make a Fair Housing complaint. CMHA may also report the owner to HUD (Fair Housing/Equal Opportunity) or the local Fair Housing Organization.

#### **I. CHANGES IN ELIGIBILITY PRIOR TO EFFECTIVE DATE OF THE CONTRACT**

Changes that occur during the period between issuance of a voucher and lease up may affect the family's eligibility or share of the rental payment. The information will be verified and the total family share will be recalculated to ensure the family remains eligible.

#### **J. INELIGIBLE FAMILIES**

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they were

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denied due to non-citizen status. See Chapter 19-“Informal Reviews and Hearings” for additional information.

#### **K. PROHIBITED ADMISSIONS CRITERIA [982.202(b)]**

Admission to the program may not be based on:

- Where a family lives prior to admission to the program.
- Where the family will live with assistance under the program.
- Discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock.
- Discrimination because a family includes children.
- Discrimination because a family member is a victim of domestic violence, dating violence, sexual assault or stalking.
- Whether a family decides to participate in a Family Self-Sufficiency Program; or
- Other reasons as listed in the "Statement of Policies and Objectives" chapter under the Fair Housing and Reasonable Accommodations sections.

### **III. CHAPTER 3-APPLYING FOR ADMISSION**

#### **A. INTRODUCTION**

The policy of CMHA is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply, and are treated in a fair and consistent manner. This chapter describes the policies and procedures for completing an initial application for assistance, placement and denial of placement on the waiting list, and limitations on who may apply. The primary purpose of the intake function is to gather information about the family, but CMHA will also utilize this process to provide information to the family, so that an accurate and timely decision of eligibility can be made. Applicants will be placed on the waiting list in accordance with this Plan.

#### **B. OVERVIEW OF THE APPLICATION TAKING PROCESS**

The purpose of application taking is to permit CMHA to gather information and determine placement on the waiting list. The application will contain questions designed to obtain pertinent program information. CMHA may communicate with Applicants via mail or any available electronic method.

##### **Tenant-Based Program**

Families who wish to apply for the Tenant-Based Housing Choice Voucher Program must complete a pre-application lottery form when the lottery is held. Applications will be made available in an accessible format upon request from a person with a disability.

##### **Project-Based and Mod Rehab Programs**

Families who wish to apply for the Project-Based or Mod Rehab Programs may submit a pre-application online when the waiting list is open. Applications will be made available in an accessible format upon request from a person with a disability.

##### **Initial and Final Application Phases**

The application process will involve two phases. The first is the "initial" application for assistance (referred to as a pre-application). In the case of the tenant-based program, this first phase results in the family's entry in the computer generated random lottery selection process. In the case of the Project-Based and Mod Rehab Programs, this first phase results in the family's placement on the waiting list by date and time of application order.

The second phase is the "determination of eligibility" (referred to as the full application).

The full application takes place when the family is selected in the lottery and the family reaches the top of the waiting list. At this time CMHA ensures that verification of all HUD and CMHA eligibility factors is current in order to determine the family's eligibility for the issuance of a voucher.



**C. OPENING/CLOSING OF APPLICATION TAKING [24 CFR 982.206, 982.54(d) (1)]**

CMHA will utilize the following procedures for opening any waiting list managed by the HCVP:

- 1) When CMHA opens a waiting list, CMHA must give public notice that families may apply for assistance. The public notice must state where and when to apply.
- 2) CMHA must give the public notice by publication in a local newspaper of general circulation, and also by minority media and other suitable means. The notice must comply with HUD fair housing requirements.
- 3) The public notice must state any limitations on who may apply for available slots in the program.

The notice will state that families may place their name on any CMHA waiting list that is open.

Outreach will be provided through notification to local social service agencies to assist persons with disabilities. The notice will contain the same information as given to the general public.

The notice will be made in an accessible format, if requested.

**Order of Waiting List:** For lottery pre-applicants, the family's place on the waiting list is determined by the random selection order, after applicants who were on the waiting list previously. For the Mod-Rehab and Project-Based waiting lists, the family's order on the waiting lists is determined by date and time of pre-application. The order of the waiting list may be modified by any CMHA-approved preferences the family may request and CMHA may verify.

Through the pre-application process, CMHA will accept pre-applications from families for placement on a waiting list. However, a full application from a family may later be denied due to a failure to meet eligibility requirements or action or inaction by members of the family for the grounds stated in the "Denial or Termination of Assistance" Chapter 15 of this Administrative Plan.

CMHA will maintain the following tenant-based waiting list:

General Tenant-Based which includes Money Follows the Person/Ohio Home Choice, Family Unification Program (FUP) and Veterans Affairs Supportive Housing (VASH).

CMHA will maintain the following project-based waiting lists:

General Project-Based, Intergenerational Housing, Chronically Homeless Permanent Supportive Housing and Homeless Permanent Supportive Housing.

CMHA will maintain a General Moderate Rehabilitation waiting list.

CMHA may open additional waiting lists in accordance with this Chapter and Chapter 20.

The Project-Based and Moderate Rehabilitation waiting lists will remain open. The Tenant-

Based waiting list will remain open for the following programs: Money Follows the Person/Ohio Home Choice, Family Unification Program (FUP), Veterans Affairs Supportive Housing (VASH) and for Relocating CMHA Public Housing and Project-Based residents displaced by domestic violence, dating violence, sexual assault or stalking.

**Limitations on Who May Apply:** When the waiting list is open, any interested family will be given the opportunity to complete a pre-application. Limitations on who may be qualified for a program will be listed in the advertisement and verified as part of the full eligibility process when the family's name reaches the top of the waiting list.

For lottery applicants, when the pre-application is submitted, it is entered into a lottery to determine selection for the waiting list. Pre-applications which are not selected in the lottery will be discarded.

#### **D. INITIAL APPLICATION PROCEDURES [24 CFR 982.204(b)]**

CMHA will utilize a pre-application form. The information is to be filled out by the applicant whenever possible. CMHA will provide specific accommodation for persons with disabilities in completing the pre-application. The information may be completed by the pre-applicant with the assistance of a social service agency worker or other individual selected by the family.

Spanish translations will be provided for non-English speaking applicants upon request. Other languages will be accommodated in accordance with the Language Assistance Plan.

The purpose of the pre-application is to determine placement on the waiting list. Duplicate pre-applications will be voided (e.g., a head-of-household who submits more than one entry for the lottery).

Program eligibility will not be determined during the pre-application stage.

Pre-applications will not require an interview. The information on the application will not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed and all information is verified.

The purpose of the pre-application is to permit CMHA to preliminarily assess family eligibility or ineligibility and to determine placement on the waiting list. The pre-application will contain at least the following information:

- Applicant name
- Contact Information
- Family Size
- Date and time of application or randomly assigned lottery number
- Racial and ethnic designation of the head of household
- Annual (gross) family income
- Qualification of Local Preference

#### **E. APPLICANT STATUS WHILE ON WAITING LIST [CFR 982.204]**

Applicants are required to inform CMHA of changes in address in writing. Applicants are also required to respond to requests from CMHA to update information on their application and to determine their continued interest in assistance.

#### **F. TIME OF SELECTION [24 CFR 982.204 (d)(2)]**

When there is insufficient funding available for the family at the top of the list, CMHA will not issue vouchers until funding is available for the first applicant.

#### **G. COMPLETION OF A FULL APPLICATION**

All information declared on the pre-application or while the family is on the waiting list will be verified after the family is selected from the waiting list, during the final eligibility stage.

When CMHA is ready to select applicants, applicants will be required to complete a full application in their own handwriting, unless assistance is needed, or a request for accommodation is made by a person with a disability. Applicants will then be interviewed by CMHA staff to review the information on the full application form. The full application will be mailed in advance to complete.

#### **Requirement to Attend Interview**

CMHA utilizes the full application interview to discuss the family's circumstances in greater detail, to clarify information which has been provided by the family, and to ensure that the information is complete. The interview is also used as a vehicle to meet the informational needs of the family by providing information about the application and verification process, as well as to advise the family of other CMHA services or programs which may be available.

All adult family members are required to attend the interview and sign the housing application. Exceptions may be made for students attending school out of state or for members for whom attendance would be a hardship.

If an applicant fails to appear for the first appointment, CMHA will automatically schedule a second appointment. If the applicant fails to appear for the second appointment the application will be denied unless the applicant provides acceptable documentation to CMHA that the appointment was missed for good cause. If an application is denied due to failure to attend the full application interview, the applicant will be notified in writing and offered an opportunity to request an informal review. (See Chapter 19- Informal Reviews and Hearings)

After the interview, any documentation requested by CMHA must be returned within seven days unless an extension of time is approved at the supervisor level or above. Failure to provide requested documentation within the time frame established by CMHA may result in the family

being withdrawn.

Reasonable accommodation will be made for persons with a disability who require an advocate or accessibility to the offices. A designee will be allowed to participate in the interview process, but only with permission of the person with a disability.

#### **H. VERIFICATION [24 CFR 982.201(e)]**

Information provided by the applicant will be verified, using the verification procedures in the "Verification Procedures" Chapter 7. Family composition, income, allowances and deductions, assets, full-time student status, eligibility and rent calculation factors, and other pertinent information will be verified. Verifications must not be more than 60 days old at the time of issuance of the Voucher.

#### **I. FINAL DETERMINATION & NOTIFICATION OF ELIGIBILITY/INELIGIBILITY [24 CFR 982.201]**

After the verification process is completed, CMHA will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by CMHA, and the current eligibility criteria in effect. If the family is determined to be eligible, CMHA will mail a notification of eligibility. A briefing will be scheduled for the issuance of a voucher and the family's orientation to the housing program.

If the family is determined ineligible, they will be notified in writing and informed of their right to an informal review.

#### **IV. CHAPTER 4-ESTABLISHING PREFERENCES AND MAINTAINING THE WAITING LIST**

[24 CFR Part 5, Subpart D; 982.54(d) (1); 982.204, 982.205, 982.206]

##### **A. INTRODUCTION**

It is CMHA's objective to ensure that families are placed in the proper order on the waiting list and selected from the waiting list for admission in accordance with the policies in this Administrative Plan.

By maintaining an accurate waiting list, CMHA will be able to perform the activities which ensure that an adequate pool of qualified applicants will be available so that program funds are used in a timely manner.

##### **B. WAITING LIST [24 CFR 982.204]**

CMHA uses a single waiting list for admission to its HCVP Tenant-Based Assistance Program. CMHA also maintains Moderate Rehabilitation and Project Based waiting lists. CMHA does not merge its waiting lists.

Except for Special Admissions and targeted funding, applicants will be selected from the CMHA waiting list in accordance with policies and income targeting requirements defined in this Administrative Plan. CMHA will maintain information that permits proper selection from the waiting list. CMHA uses the active tenant-based waiting list for admission to its HCVP Tenant-Based Assistance Program.

The waiting list contains the following information for each applicant listed:

Applicant name

- Date and time of application
- Racial and ethnic designation of the head of household
- Family unit size (number of bedrooms for which the family qualifies under CMHA subsidy standards)
- Annual Income
- Criteria that establish eligibility for targeted program funding such as, non-elderly disability vouchers (if funding is available)
- Disability Status

##### **C. SPECIAL ADMISSIONS [24 CFR 982.54(d) (3), 982.203]**

If HUD awards program funding that is targeted for specifically named families, CMHA will admit these families under a Special Admission procedure.

The following are examples of types of program funding that may be designated by HUD for families living in a specified unit type:

- A family displaced because of demolition or disposition of a Public or Indian Housing project;
- A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;
- For housing covered by the Low Income Housing Preservation and Resident Homeownership Act of 1990;
- A family residing in a project covered by a project-based HAP contract at or near the end of the HAP contract term or the owner opts-out or pre-pays;

Applicants, who are admitted under Special Admissions, rather than from the waiting list, are identified by codes in the automated system and are not maintained on separate lists.

#### **D. OTHER ADMISSIONS**

**Relocating Residents of Agency Owned Subsidized Properties:** When HUD does not award special funding for residents of Agency owned subsidized properties relocating because of renovation, demolition or disposition, or in the event of a Rental Assistance Demonstration (RAD) program conversion, relocating residents may be offered Housing Choice Vouchers. When this occurs, the waiting list will be opened in accordance with the requirements enumerated in Chapter 3. With respect to residents relocating in connection with a RAD Conversion, the offer or issuance of Housing Choice Vouchers shall also be done in accordance with the provisions of PIH Notice 2010-32, REV-2 and PIH Notice 2016-17, as such requirements may be amended.

**Relocating CMHA Public Housing residents displaced by domestic violence, dating violence, sexual assault or stalking:** When a public housing resident is verified to be a victim entitled to VAWA protections, the resident may opt to receive a voucher rather than an emergency transfer to a different Public Housing Estate. In cases where the perpetrator of the abuse is considered particularly dangerous, and/or the victim has not identified any Public Housing Estate where they feel safe, the Voucher Program will permit the family to apply to the tenant based waiting list to move to another location which may be safer for the family, if there are vouchers available.

**Relocating CMHA Project-Based residents displaced by domestic violence, dating violence, sexual assault or stalking:** When a Project-Based resident who has not resided in the unit for one year is verified to be a victim entitled to VAWA protections, the resident may opt to receive a voucher. The Voucher Program will permit the family to apply to the tenant based waiting list to move to another location which may be safer for the family, if there are vouchers available.

**Victims of Governmentally Declared Natural Disasters:** CMHA may open its waiting list for victims of governmentally declared natural disasters. CMHA will announce the opening of the

waiting list for victims of governmentally declared natural disasters in accordance with the requirements enumerated in Chapter 3. With proper documentation, families who are victims of a governmentally declared natural disaster are eligible to be added to the waiting list. Governmentally declared natural disasters include, but are not limited to floods, tornadoes, hurricanes, earthquakes and tsunamis. Proper documentation includes, but is not limited to written statements from disaster relief agencies such as Federal, State or local Emergency Management Agencies, the Red Cross and other Federal, State or local agencies either within or outside the jurisdiction where the governmentally declared natural disaster occurred.

**Veterans Affairs Supportive Housing (VASH):** VASH combines Housing Choice Voucher rental assistance for homeless veterans with case management and clinical services provided by the Department of Veterans Affairs (VA). Referrals for VASH applicants are made by the VA. In addition to Tenant-Based vouchers, Project-Based vouchers are offered.

**Money Follows the Person/Ohio Home Choice (MFP/OHC):** Money Follows the Person (MFP) is a national initiative known as Ohio Home Choice (OHC) in the State of Ohio. This program helps remove barriers so that states can provide more home-based long-term care for families instead of institutional care such as nursing homes. CMHA will make up to 25 vouchers available for tenant-based assistance for the MFP/OHC Program. Referrals for MFP/OHC are made by the Ohio Department of Jobs and Family Services which administers the MFP/OHC program in the State of Ohio.

When a family is referred to CMHA through the MFP/OHC program, it will receive a voucher if it meets all of the eligibility requirements enumerated in this Plan, and a voucher is available for the MFP/OHC program.

When a family is referred to CMHA through the MFP/OHC program, CMHA will search its voucher waiting list to determine whether the referred family is on that list. If the referred family's name is already on the CMHA waiting list, its name will be removed when it receives a voucher through the MFP/OHC program, and the family will be counted against the 25 vouchers.

**Family Unification Program (FUP):** The Family Unification Program (FUP) is a program under which tenant based Housing Choice Vouchers are provided to families for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child or children in out-of-home care, or the delay in the discharge of the child or children to the family from out-of-home care and youth at least 18 years old and not more than 21 years old who left foster care at age 16 or older and who lack adequate housing.

CMHA administers the FUP in partnership with local social services providers who are responsible for referring FUP families and youths to the CMHA for determination of eligibility for rental assistance. Once the referral is made, HCV places the FUP applicant on its waiting list, determines whether the family or youth meets HCV program eligibility requirements, and conducts all other processes relating to voucher issuance and administration.

**Displaced Moderate Rehabilitation Admissions:** A family may be admitted to the Voucher Program if it is a family in the Moderate Rehabilitation Program and it has been determined by CMHA that the family must relocate because the family has a disabled member and there are no accessible units of the appropriate size and type available.

A family may be admitted to the Voucher Program if it is a family in the Moderate Rehabilitation Program and the owner has opted out of the Program, or if there has been a HUD takeover of the building, or if the Moderate Rehabilitation contract with the owner has been cancelled. Families in the Moderate Rehabilitation Program are not eligible to be admitted to the Voucher Program solely because they are over housed.

If a family is to be admitted to the Voucher Program, CMHA will place the family on the waiting list in the order of the date and time of the completed application. Once the family is determined eligible for the program they will be assigned 30 points, unless they are a HUD directed Special Admissions family, in which case 40 points will be assigned. The family will then be selected from the waiting list in accordance with the assigned waiting list ranking.

#### **E. INCOME TARGETING (24 CFR 982.201)**

In accordance with the Quality Housing and Work Responsibility Act of 1998, each fiscal year CMHA will reserve a minimum of seventy-five percent of its HCVP new admissions for families whose income does not exceed the higher of 30 percent of the area median income as determined by HUD or the federal poverty level. HUD refers to these families as "Extremely Low-Income families (ELI)". CMHA will admit families who qualify under the ELI limit to meet the income targeting requirement, regardless of waiting list ranking.

CMHA will assess monthly whether the number of persons admitted in accordance with this Plan will result in CMHA achieving the required 75% targeting of persons in the ELI range. To the extent that CMHA is not on track with that goal, it will skip to the next ELI family on the waiting list in rank order. CMHA's income-targeting requirement does not apply to low income families continuously assisted as provided for under the 1937 Housing Act.

CMHA is also exempted from this requirement where CMHA is providing assistance to low income or moderate-income families entitled to preservation assistance under the tenant-based program as a result of a mortgage pre-payment or opt-out.

If the family's verified annual income, at final eligibility determination, does not fall under the ELI limit and the family was selected for income targeting purposes before families with higher rank on the waiting list, the family will be returned to its original position on the waiting list.

#### **F. TARGETED FUNDING [24 CFR 982.203]**

Targeted Funding is program funding for special category families qualified for programs. Once the entire list has been exhausted, outside referrals may be accepted.



Applicants who are admitted under targeted funding are identified by codes in the automated system. CMHA has the following "Targeted" Programs:

- VASH
- Mainstream
- Family Unification Program (FUP): Once a family leaves the program, their FUP voucher returns to the pool of FUP vouchers.
- Non-elderly disabled
- Money Follows the Person (MFP)

#### **G. ORDER OF SELECTION [24 CFR 982.207(e)]**

CMHA's method for selecting applicants leaves a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in the Administrative Plan.

A point system will allocate preference points as described below to prioritize families from the waiting lists:

- **HUD Directed Special Admissions** - 40 points on the General Tenant-Based and General Project-Based Waiting Lists.
- **Relocating Residents of Agency Owned Subsidized Properties (including RAD Relocation)** – 40 points on the General Tenant-Based and General Project-Based Waiting Lists.
- **Victims of Governmentally Declared Natural Disasters** - 40 points on the General Tenant-Based and General Project-Based Waiting Lists.
- **Project-Based in-place families** - 40 points on the Project-Based Waiting List. These preference points are only applicable to the site at which the applicant currently resides.
- **Money Follows the Person/Ohio Home Choice** - 40 Points on the General Tenant-Based waiting list.
- **Veterans Administration Supportive Housing (VASH)** – 40 points on the General Tenant-Based and Project Based Waiting Lists.
- **VAWA**-40 points on the General Tenant-Based Waiting List.
- **Displaced Moderate Rehabilitation Program** (participating families who must relocate because the family has a disabled member and there are no accessible Mod Rehab units of the appropriate size or type, or the owner has opted out of the program, or if there has been a HUD takeover, or if the contract with the owner is cancelled) - 30 points on the General Tenant-Based waiting list.
- **Family Unification Program (FUP)** – 15 points on the General Tenant-Based waiting list.

- **Cuyahoga County Residency Preference**-Applicant families who reside in Cuyahoga County will be assigned 10 preference points on the waiting list. This preference includes applicants who are working or who have been notified that they have been hired to work in Cuyahoga County.

The residency preference is required to accommodate families in Cuyahoga County in need of safe decent and affordable housing as evidenced by the 2010 American Community Survey – One Year Estimates, which states that the percentage of families and people whose income in the past 12 months is below the poverty level is 14.5% for all families.

The residency preference will not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, ethnic origin, gender, religion, disability or age of any member of the applicant family. The preference will not be based on how long an applicant has resided or worked in Cuyahoga County.

Acceptable documentation of Cuyahoga County residency or employment must be provided at the time of the full application.

This preference is only applicable to waiting lists established in 2011 or after. Any prior waiting list will be completely exhausted in accordance with the waiting list policy as outlined in the 2010 Administrative Plan prior to the Cuyahoga County Residency Preference being implemented.

- **Intergenerational Housing (Griot Village) Project-Based Site-Based Waiting List Preference**- This preference applies to project-based applicants who are adults 55 years of age and older with legal custody of one or more minor children, who are applying to reside in a property designated to serve intergenerational households in need of supportive services, including Fairfax Intergenerational Housing (Griot Village). Eligible applicants will be assigned 10 preference points on the project-based site-based waiting list to which they apply.
- **Chronically Homeless Permanent Supportive Housing Project-Based Site-Based Waiting List Preference**- This preference applies to chronically homeless applicants who are applying to reside in a property designated to serve chronically homeless households in need of supportive services. A chronically homeless applicant is an unaccompanied individual with a disabling condition, or an adult member of a homeless family who has either been continuously homeless for one year or more, or has had at least four episodes of homelessness in the past three years. Eligible applicants will be assigned 10 preference points on the Chronically Homeless Permanent Supportive Housing Project-Based Site-Based waiting list. Eligible applicants must have documentation of chronic homelessness from Cuyahoga Central Intake or its designated vendor to receive 10 preference points on the Chronically Homeless Permanent Supportive Housing for Project-Based Site-Based Waiting List.
- **Chronically Homeless Permanent Supportive Housing for Near Elderly and Elderly**

**Project-Based Site-Based Waiting List Preference-** This preference applies to chronically homeless project-based applicants who meet the HUD definition of near elderly or elderly, and who are applying to reside in a property designated to serve chronically homeless households in need of supportive services. A chronically homeless applicant is an unaccompanied individual with a disabling condition, or an adult member of a homeless family who has either been continuously homeless for one year or more, or has had at least four episodes of homelessness in the past three years. Eligible applicants will be assigned 15 preference points on the Chronically Homeless Permanent Supportive Housing for Near Elderly and Elderly Project-Based Site-Based Waiting List.

- **Near Elderly/Elderly (55 years+) Waiting List Preference-** This preference applies to project-based applicants who are adults 55 years of age and older. Eligible applicants will be assigned 10 preference points on the general project-based waiting list to which they apply.
- **Homeless Permanent Supportive Housing Project-Based Site-Based Waiting List Preference-** This preference applies to homeless applicants who are applying to reside in a property designated to serve homeless households in need of supportive services. Eligible applicants must have documentation of homelessness from Cuyahoga Central Intake or a recognized homeless provider to receive 10 preference points on the Homeless Permanent Supportive Housing Project-Based Site-Based Waiting List. A homeless applicant is: 1.) An individual or family who lacks a fixed, regular and adequate nighttime residence; 2.) An individual or family who will imminently lose their primary nighttime residence; 3.) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who meet the other criteria as identified in the Final Rule (“Homeless Emergency Assistance and Rapid Transition to Housing: Defining ‘Homeless’”, Federal Register dated December 5, 2011, final rule, RIN 2506-AC26); and 4.) Any individual or family who (i) Is fleeing or is attempting to flee domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or family member, including a child, that has either taken place within the individual’s or family’s primary nighttime residence; (ii) Has no other residence; and (iii) Lacks the resources or support networks, e.g., family, friends, and faith-based or other social networks, to obtain other permanent housing. Eligible applicants will be assigned 10 preference points on the Homeless Permanent Supportive Housing Project-Based Site-Based waiting list.

Targeted funding applicants will be identified and verified as funding becomes available.

All applicants on the tenant-based and project-based waiting lists who do not qualify for the above preferences will be organized in the random order assigned by the computer for tenant-based or date and time of application for project-based.

## **H. WITHDRAWAL FROM THE WAITING LIST [24 CFR 982.204(c)]**

The Waiting List may be updated as deemed necessary by the HCVP Director or designee at the supervisor level or above, by a mailing to all applicants to ensure that the waiting list is current

and accurate.

The mailing will ask for confirmation of continued interest.

Any mailings to the applicant which require a response will state that failure to respond, in writing, within 30 days will result in the applicant's name being withdrawn from the waiting list. If the family contacts the office in writing, within 30 days of the removal, and upon review and approval of staff at a level of supervisor or up, the family may be reinstated to the waiting list.

An extension to respond will be granted, if requested and needed as a reasonable accommodation for a person with a disability. If the applicant did not respond to CMHA's request for information or updates because of a family member's disability, CMHA will reinstate the applicant to the family's former position on the waiting list.

If a letter is returned by the Post Office without a forwarding address, the applicant will be removed without further notice, and the envelope and letter will be maintained in the file.

If a letter is returned with a forwarding address, it will be re-mailed to the address indicated. If an applicant is withdrawn from the waiting list for failure to respond in writing, they will not be entitled to reinstatement unless staff at the supervisor level or above reviews and approves such reinstatement.

Once admitted to the HCVP tenant-based Assistance Program, the applicant's name is removed from the waiting list.

#### **I. MODERATE REHABILITATION PROGRAM (24 CFR Part 5, Subpart D; 982.54(d) (1); 982.204, 982.205; 982.206)**

CMHA uses a separate waiting list for admission to its Moderate Rehabilitation Program.

The waiting list rank is by date and time of application and bedroom size.

The waiting list contains the following information for each applicant selected:

- Applicant Name
- Date and Time of Application
- Racial or Ethnic Designation of Head of Household
- Number of Persons in the Family

The Moderate Rehabilitation application process will involve two phases: The first is for placement on the waiting list. The second phase is called final eligibility (referred to as the full application). The full application takes place when there is a vacancy. At that time, CMHA ensures verification of HUD and CMHA eligibility factors as described in the Plan to determine the family's eligibility. CMHA will maintain a list of mod rehab properties on its website at cmha.net. A list of mod rehab properties is also available upon request.

CMHA will utilize the process described in Chapter 3 when opening and closing the Moderate Rehabilitation waiting list.

## **J. MODERATE REHABILITATION REFERRAL SYSTEM**

When CMHA is notified of a vacancy, it will send referrals from the Moderate Rehabilitation (Mod Rehab) waiting list to the Mod Rehab owner for a period of 30 days. CMHA will contact the first family on the appropriate bedroom size waiting list and if the family is interested in the Mod Rehab unit CMHA will refer the family to the owner. If the family refuses the unit, the refusal will be noted and the next person on the waiting list will be contacted. Once the family has refused a referral to two like units for their family type, the family will be withdrawn from the Mod Rehab waiting list.

If a family is not accepted by the Mod Rehab owner, the owner must document the reason for the refusal to the Mod Rehab supervisor on a form provided by CMHA. The owner may refuse any family so long as the owner has a valid reason and does not unlawfully discriminate. The owner refusal will be noted, and the family will remain in order on the appropriate bedroom size waiting list.

Owners of Mod Rehab properties can refer applicants to CMHA for placement onto the Mod Rehab waiting list(s) when they are open. Referrals must meet bedroom eligibility requirements. Owner referrals will be placed on the waiting list by date and time of application if the waiting list is open.

## **K. PROJECT BASED VOUCHER PROGRAMS**

CMHA has a designated Project-Based (PBV) waiting list to fill vacancies in its Project-Based Voucher Assistance Program. However, PBV properties serving only narrowly defined segment(s) of the population may have a site-based PBV waiting list. The PBV waiting list, and any site based PBV waiting list(s), is maintained by date and time of application.

Once admitted to the PBV program, the applicant's name is removed from the PBV waiting list, but may remain on any other CMHA waiting list.

Site-based PBV waiting list(s) may remain open. The pre-application for the PBV site-based waiting list(s) will be used to determine the preference placement on the waiting list. The family must be qualified as eligible under the rules of the HCVP when the name rises to the top of the waiting list. If the family does not qualify as eligible, the name will be withdrawn from the site-based waiting list.

When CMHA is notified of a vacancy at a PBV property with a site-based waiting list, it will send voucher-eligible referrals from the site-based waiting list to the property owner. CMHA will contact the first eligible family on the site-based list in need of the appropriate bedroom size and refer the family to the owner. If the family refuses the unit, the family will be notified to inform CMHA, in writing, as to whether or not they wish to be withdrawn from the PBV site-based waiting list. It is the owner's responsibility to screen the referred family for tenancy suitability. If the owner does not offer the family the vacant unit, the owner must document the

reason for the refusal to accept the family on a form provided by CMHA. If the family does not meet tenancy suitability, the family will be withdrawn unless there are comparable units (same bedroom size) under other PBV contracts utilizing the same waiting list.

The Project-Based waiting lists will be opened and closed in accordance with the requirements enumerated in Chapter 3.

#### **L. PROJECT BASED IN-PLACE FAMILIES**

An eligible family residing in a proposed project-based unit on the date the proposal is selected is considered an “in-place family”. These families are afforded protection from displacement under project-based rules. Such families will be added to the PBV Waiting List and assigned 40 points for ultimate priority. Vacant units will be leased with applicants from the PBV waiting list in rank order.

## **V. CHAPTER 5-SUBSIDY STANDARDS**

### **A. INTRODUCTION**

HUD guidelines require that PHAs establish subsidy standards for the determination of family unit size, and that such standards provide for a minimum commitment of subsidy while avoiding overcrowding. The standards used for the unit size selected by the family must be within the minimum unit size requirements of HUD's Housing Quality Standards. This Chapter explains the subsidy standards which will be used to determine the voucher size (family unit size) for various sized families when they are selected from the waiting list, as well as CMHA's procedures when a family's size changes or a family selects a unit size that is different from the voucher.

### **B. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]**

There must be at least one person per bedroom on the Voucher unless a reasonable accommodation has been granted. CMHA's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines.

All standards in this section relate to the number of bedrooms on the Voucher, not the family's actual living arrangements.

The unit size on the Voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

Bedrooms will be assigned to all other family members on the basis of two members of the same sex per bedroom, unless their ages are five years or more apart, or there are other extenuating circumstances. CMHA will consider factors such as family characteristics including sex, age, or relationship in determining the voucher bedroom size. Consideration will also be given for medical reasons and the presence of a live-in-aide.

Head of household and spouse/co-head shall occupy the same bedroom.

If there is no spouse/co-head occupying the same bedroom as the head of household, the head of household will share a bedroom with their child under age one.

Persons of different generations (e.g. grandparent and grandchild) will be allocated a separate bedroom.

Foster children will be included in determining unit size.

Live-in aides will be provided a separate bedroom. No additional bedrooms are provided for the aide's family. However, a live-in-aide with family members that cause the HQS occupancy standards to be exceeded will not be approved to live in the unit.

Space may be provided for a child who is away at school but who lives with the family during

school recesses.

Space will not be provided for a family member, other than a spouse or co-head, who will be absent most of the time, such as a member who is away in the military.

Single person families shall be allocated one bedroom units.

Two children under age four will share a bedroom regardless of gender.

### **C. EXCEPTIONS TO SUBSIDY STANDARDS [24 CFR 982.403(a) & (b)]**

CMHA shall grant exceptions from the subsidy standards if the family requests and CMHA determines the exceptions are justified by the relationship, age, sex, health or disability of family members, or other individual circumstances.

CMHA will grant an exception upon request as an accommodation for persons with disabilities. Circumstances may dictate a larger size than the subsidy standards permit when persons cannot share a bedroom because of a need, such as a verified medical or health reason, or elderly persons, or persons with disabilities who may require a live-in attendant.

#### **Changes for Applicants/Participants**

For new participants at the time of initial voucher issuance, and for any participant in his/her first year of contract, CMHA will only allow a move in the first year of the contract for safety issues (with supporting documentation), as a reasonable accommodation for persons with a disability or those who need who are covered under the VAWA regulation. Documentation supporting the request and verification of the landlord's agreement to rescind the lease may be required for such a request to be considered.

#### **CMHA Error**

If CMHA errs in the bedroom size designation, the family will be issued a voucher of the appropriate size.

#### **Changes in Family Composition**

The members of the family residing in the unit must be approved by CMHA. CMHA will only approve additions to the household due to birth, marriage, adoption and court-awarded custody. Acceptable documentation of court-awarded custody is limited to:

- 1) court documents;
- 2) applicable page of divorce decree showing custody;
- 3) letter from a social service agency indicating placement of the child.

Pursuant to HUD's final rule, "Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity", Federal Register Vol. 77, No. 23, February 3, 2012, another adult may be added to the family composition upon request of the Head-of-Household, regardless of actual or perceived sexual orientation, gender identity or marital status.



At CMHA's discretion, other adults or minors, who meet the definition of family, may be added to the family composition.

On a case-by-case basis, a minor child may be added to the family composition, if the minor resides with an adult member of the household pursuant to the written permission of the minor child's parent or legal custodian. The new family member(s) must meet all CMHA HCVP eligibility requirements.

Payment standards shall not be adjusted at the time of any interim re-examination, unless the family is moving. At the time of the annual re-exam, the payment standard should be adjusted to reflect any changes since the last regular re-exam in either the family's eligibility or the level of the payment standard.

### **Underhoused and Overhoused Families**

**Underhoused**-families residing in inadequate space in relation to family size.

**Overhoused**-families residing in more space than needed based on subsidy standards in relation to family size.

If a unit does not meet HQS space standards due to an increase in family size, (unit too small), CMHA will issue a new voucher of the appropriate size if the family is eligible to move.

CMHA will consider the family's request and notify the family of the circumstances under which an exception may be granted, such as:

- If a family with a disability is underhoused in an accessible unit.
- If a family requires the additional bedroom because of a health problem which has been verified by CMHA.

See Chapter 1, "Reasonable Accommodations Policy".

### **D. UNIT SIZE SELECTED [24 CFR 982.402(c)]**

The family may select a different size dwelling unit than that listed on the Voucher. There are three criteria to consider:

- **Subsidy Limitation:** The family unit size as determined for a family under CMHA's subsidy standards for a family assisted in the voucher program is based on CMHA's adopted payment standards.
- **Utility Allowance:** The utility allowance used to calculate the gross rent is based on the family's voucher size or the actual size of the unit, whichever is lower.

- **Housing Quality Standards:** The standards allow two persons per living/sleeping room and permit maximum occupancy levels (assuming a living room is used as a living/sleeping area) as shown in the table below. The levels may be exceeded if a room in addition to bedrooms and living room is used for sleeping. Any such rooms must meet HQS acceptability criteria e.g. openable windows.

## **HQS GUIDELINES FOR UNIT SIZE SELECTED**

(Municipal ordinances prevail)

<b>Unit Size</b>	<b>Maximum Number in Household</b>
0 Bedroom	2
1 Bedroom	4
2 Bedrooms	6
3 Bedrooms	8
4 Bedrooms	10
5 Bedrooms	12
6 Bedrooms	14

## **VI. CHAPTER 6-FACTORS RELATED TO TOTAL TENANT PAYMENT AND FAMILY SHARE DETERMINATION**

[24 CFR Part 5, Subparts E and F; 982.153, 982.551]

### **A. INTRODUCTION**

CMHA will use the methods as set forth in this Administrative Plan to verify and determine that family income at admission and at annual reexamination is correct. The accurate calculation of Annual Income and Adjusted Income will ensure that families are not paying more or less money for rent than their obligation under the Regulations.

This Chapter defines the allowable expenses and deductions to be subtracted from Annual Income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). Income and TTP are calculated in accordance with 24 CFR Part 5, Subparts E and F, and further instructions set forth in HUD Notices and Memoranda. The formula for the calculation of TTP is specific and not subject to interpretation. CMHA's policies in this Chapter address those areas which allow CMHA discretion to define terms and to develop standards in order to assure consistent application of the various factors that relate to the determination of TTP.

### **B. INCOME AND ALLOWANCES [24 CFR 5.609, 5.611]**

**Income:** Includes all monetary amounts which are received on behalf of the family. For purposes of calculating the Total Tenant Payment, HUD defines what is to be calculated and what is to be excluded in the Federal Regulations. In accordance with this definition, all income which is not specifically excluded in the Federal Regulations is counted.

**Annual Income** is defined as the gross amount of income anticipated to be received by the family during the 12 months after certification or recertification. Gross income is the amount of income prior to any HUD allowable expenses or deductions, and does not include income which has been excluded by HUD. Annual income is used to determine whether or not applicants are within the applicable income limits.

**Adjusted Income** is defined as the Annual income minus any HUD allowable expenses and deductions.

HUD has five allowable deductions from Annual Income:

- 1) **Dependent Allowance:** \$480 each for family member (other than the head or spouse) who are minors, and for family members who are 18 and older who are full-time students or who are disabled.
- 2) **Elderly/Disabled Allowance:** \$400 per family for families whose head or spouse is 62 or over or disabled.
  - a. For purposes of the disabled allowance:

1. Disabled family – means a family whose head (including co-head), spouse, or sole member is a person with a disability. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in-aides.
  2. Persons with disabilities – means a person who:
    - i. Has a disability, as defined in 42 U.S.C. 423;
    - ii. Is determined, pursuant to HUD regulations, to have a physical, mental or emotional impairment that:
      - A. Is expected to be of long-continued and indefinite duration;
      - B. Substantially impedes his or her ability to live independently, and
      - C. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
    - iii. Has a developmental disability as defined in 42 U.S.C. 6001.
  3. Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;
  4. For purposes of qualifying for low income housing, does not include a person whose disability is based solely on any drug or alcohol dependence.
- 3) Allowable Medical Expenses: Deducted for all family members of an eligible elderly/disabled family.
  - 4) Child Care Expenses: Deducted for the care of children under 13 when child care is necessary to allow an adult member to work, attend school, or actively seek employment.
  - 5) Allowable Disability Assistance Expenses: Deducted for attendant care or auxiliary apparatus for persons with disabilities if needed to enable the individual or an adult family member to work.

**C. DISALLOWANCE OF EARNED INCOME FOR PERSONS WITH DISABILITIES [24 CFR 5.617, 982.201(b) (3)]**

A family qualified for the earned income exclusion is a family that is receiving tenant-based rental assistance under the Housing Choice Voucher Program; and is a family:

- Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;
- Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or
- Whose annual income increases, as a result of new employment or increased earnings of a family member during or within six months after receiving assistance, benefits, or

services under any State program for TANF provided that the total amount over a six-month period is at least \$500. The qualifying TANF assistance may consist of any amount of monthly income maintenance, and/or at least \$500 in TANF benefits and services as one-time payments, wage subsidies and transportation assistance.

The HUD definition of “previously unemployed” includes a person with disabilities who has earned in the previous 12 months no more than the equivalent earnings for working 10 hours per week for 50 weeks at the minimum wage. Minimum wage is the prevailing minimum wage in the State or locality.

The HUD definition of economic self-sufficiency program is: any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families.

Such programs may include job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as substance abuse or mental health treatment).

Qualifying increases are any earned income increases of a family member who is a person with disabilities during participation in an economic self-sufficiency or job training program and not increases that occur after participation, unless the training provides assistance, training, or mentoring after employment.

The amount that is subject to the disallowance is the amount of incremental increase in income of a family member who is a person with disabilities. The incremental increase in income is calculated by comparing the amount of the disabled family member’s income before the beginning of qualifying employment or increase in earned income to the amount of such income after the beginning of employment or increase in earned income.

### **Initial Twelve-Month Exclusion**

During the 12-month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, CMHA will exclude from annual income of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over the prior income of that family member.

### **Second Twelve-Month Exclusion and Phase-in**

During the second 12-month period after the expiration of the initial 12-month period referred to above, CMHA must exclude from annual income of a qualified family 50 percent of any increase in income of a family member who is a person with disabilities as a result of employment over income of that family member prior to the beginning of such employment.

### **Maximum Two Year Disallowance**

Effective April 7, 2016, this Earned Income Disregard (EID) applies for a straight 24 month

period beginning with the employment start date and ending at the end of the 24 months irrespective of whether a family maintains continual employment during the 24 month period. After the 24 month period, individuals will be ineligible to receive subsequent EID benefits.

### **Applicability to Child Care Expense Deductions**

The amount deducted for childcare and disability assistance expenses necessary to permit employment shall not exceed the amount of employment income that is included in annual income. Therefore, for disabled families entitled to the earned income disallowance, the amounts of the full and phase-in exclusions from income shall not be used in determining the cap for childcare deductions.

### **Tracking the Earned Income Exclusion**

The earned income exclusion will be reported on the HUD 50058 form. Documentation will be included in the family's file to show the reason for the reduced increase in rent.

CMHA will maintain a tracking system to ensure correct application of the earned income disallowance. Upon request of the family, CMHA will conduct an interim examination due to a person's increase in income due to employment.

### **Inapplicability to Admission**

The earned income disallowance is only applied to determine the annual income of families who are participants in the Housing Choice Voucher Program, and therefore, does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

## **D. MINIMUM RENT [24 CFR 5.616]**

Minimum rent is \$50.00. Exemptions will be granted as required in 24 CFR 5.630. Minimum rent refers to the Total Tenant Payment and includes the combined amount a family pays towards rent and/or utilities when it is applied.

### **Hardship Requests for an Exemption to Minimum Rent**

In accordance with 24 CFR 5.630, CMHA must grant an exemption from payment of minimum rent if the family is unable to pay the minimum rent because of financial hardship. Financial hardship includes:

- 1) When the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program, including a non-citizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Act of 1996.
- 2) When the family would be evicted because it is unable to pay the minimum rent.
- 3) When the income of the family has decreased because of changed circumstances, including loss of employment.
- 4) When a death has occurred in the family.

5) Other circumstances determined by CMHA or HUD.

Families subject to minimum rent will be advised at the time of initial rent determination and annual recertification of their right to request a hardship exemption. CMHA will provide written notice of a family's right to request a hardship exemption at the time of each rent determination where a family's TTP is \$50 based on the minimum rent requirement.

If a family requests a financial hardship exemption, CMHA must suspend the minimum rent requirement beginning the month following the family's request for a hardship exemption, and continuing until CMHA determines whether there is a qualifying financial hardship and whether such hardship is temporary or long term.

CMHA must promptly determine whether a qualifying hardship exists and whether it is temporary or long term. "Promptly" is defined as 15 calendar days from the date of written notification by the family.

If CMHA determines that a qualifying financial hardship is temporary, CMHA must not impose the minimum rent during the 90-day period beginning the month following the date of the family's request for a hardship exemption. At the end of the 90-day suspension period, CMHA must reinstate the minimum rent from the beginning of the suspension. The family must be offered a reasonable repayment agreement, on terms and conditions established by CMHA, for the amount of back rent owed by the family.

If CMHA determines there is no qualifying financial hardship exemption, CMHA must reinstate the minimum rent, including back rent owed from the beginning of the suspension. The family must pay the back rent on terms and conditions established by CMHA.

If CMHA determines a qualifying financial hardship is long term, CMHA must exempt the family from the minimum rent requirements so long as such hardship continues. Such exemption shall apply from the beginning of the month following the family's request for a hardship exemption until the end of the qualifying financial hardship.

The financial hardship exemption only applies to payment of the minimum rent (as determined pursuant to 5.628(a) (4) and 5.630, and not to the other elements used to calculate the total tenant payment (as determined pursuant to 5.628(a) (1), (a) (2) and (a) (3)).

**E. DEFINITION OF TEMPORARY/PERMANENT ABSENCE [24 CFR 982.54(d) (10), 982.312, 982.551]**

CMHA's policy regarding permanent and temporary absences is as follows:

- Non-head of household family members will be considered temporarily absent for the purpose of voucher size and income determination if the member is expected to return to reside in the dwelling unit within a 180-day period.

- Head of Household will be considered permanently absent and subject to remaining family member policy if absent for a period of more than 60 days.
- A family member subject to court ordered restraint or incarceration for a period of more than 60 days will be considered permanently absent for the purpose of voucher size and income determination. It is the family's responsibility to notify CMHA in writing within 30 calendar days when this occurs.

### **Students Temporarily Absent**

- A student (other than the head of household or spouse) who attends school away from home but lives with the family during the school recesses may, at the choice of the family, be considered either temporarily or permanently absent. If the family decides that the member is permanently absent, income of that member will not be included in total household income, the member will not be included in the lease, and the member will not be included for determination of voucher size.
- If the student family member resides with the family 183 days per year or more, the family member must be considered temporarily absent when away at school, the member must be included on the lease and the member must be included for determination of the voucher size.

### **Absence of Head-of-Household**

- A family caretaker resident in the dwelling unit, as a result of permanent absence of the head of household and spouse, and approved by CMHA, will maintain a status of a temporary caretaker, and income of the temporary caretaker will not be counted for a period not to exceed 180 days.
- If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, the Voucher will be transferred to the caretaker if s/he meets HCVP eligibility requirements.
- If custody or legal guardianship has not been awarded by the court, but the action is in process, CMHA will secure verification from social services staff or the attorney as to the status.
- CMHA will transfer the voucher to the caretaker, in the absence of a court order, if the caretaker has been in the unit for more than 180 days and it is reasonable to expect that custody will be granted.
- Upon court awarded custody, when CMHA approves a person to reside in the unit as the permanent caretaker for the child/ren, the income should be counted. CMHA will work with the appropriate agencies and the landlord to provide a smooth transition in these cases.



## **Children Placed in Foster Care**

- If the family includes a child or children temporarily absent from the home due to placement in foster care, CMHA will determine from the appropriate agency when the child/children will be returned to the home. If the time period is to be greater than 12 months from the date of removal of the child/ren, the voucher size will be reduced. If all children are removed from the home permanently, the voucher size will be reduced in accordance with CMHA's subsidy standards. On a case-by-case basis, custody or guardianship may include a minor child residing with an adult member of the household pursuant to the written permission of a minor child's parent or legal custodian. The head of household must report in writing, within 30 days from the date of removal, the absence of minor children listed on the family composition. that have been permanently removed from the household or removed due to placement in foster care.
- Minor children permanently removed from the household or placed in foster care more than twelve consecutive months, will not be considered members of the household and are not entitled to housing subsidy (e.g., a bedroom allocation) under CMHA subsidy standards. Minor children residing in the subsidized unit must be under the custody or guardianship of an adult household member residing in the subsidized unit in order to receive housing subsidy, unless the head of household is participating in a family reunification program with respect to the minor child. CMHA may request verification of the family reunification status.

## **Death of Head-of-Household**

- Remaining family members of a deceased head of household must notify CMHA in writing, and request transfer of the voucher within a period of thirty (30) days from the date of death.

## **Absence of Entire Family [24 CFR 982.312]**

These policy guidelines address situations when the family is absent from the unit, but has not moved out of the unit. CMHA will terminate assistance in accordance with appropriate termination procedures contained in this Plan.

Families are required both to notify CMHA in writing before they move out of a unit and to give CMHA information about any family absence from the unit.

If it is determined that the entire family is absent from the unit, CMHA will not continue assistance payments.

HUD regulations require CMHA to terminate assistance if the entire family is absent from the unit for a period of more than 180 consecutive calendar days.

"Absence" means that no family member is residing in the unit.

In order to determine if the family is absent from the unit, CMHA may:

- Write letters to the family at the unit
- Telephone the family at the unit
- Interview neighbors
- Verify if utilities are in service
- Check with the post office
- Visit the unit

A person with a mitigating circumstance may request an extension of time, provided that the extension does not go beyond the HUD-allowed 180 consecutive calendar day's limit. Mitigating circumstances include, but are not limited to, medical issues, family emergencies or a death in the family.

If the absence which resulted in termination of assistance was due to a person's disability, and CMHA can verify that the person was unable to notify CMHA in accordance with the family's responsibilities, and if funding is available, CMHA may reinstate the family as an accommodation if requested by the family, as long as the period was within 180 days.

### **Visitors**

Any person not included on the HUD 50058 who has been living in the unit without CMHA approval, will be considered to be living in the unit as an unauthorized household member. Any of the following can be used in reaching a determination that an individual is an unauthorized household member:

- Absence from evidence of any other address will be considered in making a determination whether or not the visitor is a member of the household.
- Statements from neighbors and/or the landlord will be considered in making the determination.
- Use of the subsidized address on court documents, police reports or the use of the subsidized address when reporting to a probation officer, shall be considered in making a determination.
- Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be considered in making a determination.
- In a joint custody arrangement, if the minor is in the household 182 or less days per year, the minor will be considered to be an eligible visitor and not a family member.

CMHA may consider other evidence in addition to that noted above.

Once evidence establishing that the visitor is an unauthorized occupant is presented, the burden of proof that the individual is a visitor shifts to the family. In the absence of such proof, the individual will be considered an unauthorized member of the household and CMHA may

terminate assistance since prior approval was not granted by CMHA.

### **Absence Due to Incarceration**

If any household member is incarcerated for more than 60 consecutive days, s/he will be considered permanently absent. CMHA will determine whether the reason for the incarceration of a member of the household is a program violation, and may take action to terminate the family's assistance. It is the responsibility of the head-of-household to promptly (within 30 calendar days) report changes in family composition, in writing.

### **Absence Due to Court Order**

If a member of the household is subject to a court order that restricts him/her from the home for more than 60 days, the person will be considered permanently absent. The head-of-household must notify CMHA, in writing, of the absence within 30 calendar days.

### **Reporting Additions to Owner and CMHA**

Reporting changes in household composition to CMHA is both a HUD and a CMHA requirement.

The family obligations require the family to obtain CMHA approval to add any other family member as an occupant of the unit before the new member occupies the unit, except for additions by birth, adoption or court-awarded custody of a child, in which case the family must inform CMHA in writing within 30 days. Written approval from the owner for all additions, except birth, must be submitted with each request. If any new family member is added, the income of the additional member will be included in the family income as applicable under HUD regulations.

If the family does not obtain prior approval from CMHA, any person the family has permitted to move in will be considered an unauthorized household member.

An interim reexamination will be conducted for any additions to the household.

## **F. ANNUALIZING INCOME**

When annual income cannot be anticipated for a full twelve months, CMHA will annualize current income and conduct an interim reexamination if income changes.

CMHA will complete an interim re-exam for any participating family for a decrease in income, at any time, upon request by the family. Income increases must be reported by the family, in writing, within 30 days.

## **G. MINIMUM INCOME**

There is no minimum income requirement. Families who report zero income must notify CMHA in writing, within 30 days of receipt, of any type of income so that an interim re-examination of

income can be conducted.

If the family's expenses exceed their known income, CMHA may make inquiry of the head of household as to the nature of the family's accessible resources.

#### **H. INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME [24 CFR 982.54(d) (10)]**

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, the permanent absence must be reported, in writing, to CMHA within 30 calendar days, so the absent family member can be removed from the family composition. If the family member being removed is the head-of-household, remaining family members may be eligible to continue to receive assistance in accordance with 24 CFR 982.315.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the provisions contained in this Administrative Plan.

#### **I. REGULAR CONTRIBUTIONS AND GIFTS [24 CFR 5.609]**

Regular contributions and gifts received from persons outside the household are counted as income for calculation of the Total Tenant Payment.

Any contribution or gift received every month or more frequently will be considered a "regular" contribution or gift, and must be reported, in writing. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts. (See "Verification Procedures" chapter for further definition.)

If the family's expenses exceed its known income, CMHA will inquire of the family regarding contributions and gifts.

#### **J. ALIMONY AND CHILD SUPPORT [24 CFR 5.609]**

Regular alimony and child support payments are counted as income for calculation of Total Tenant Payment.

If the amount of child support or alimony received is less than the amount awarded by the court, CMHA will use the amount awarded by the court unless the family can verify that they are not receiving the full amount by providing verification from the agency responsible for enforcement or collection.

## **K. REMOVAL OF SPOUSE FROM FAMILY UNIT**

It is the family's responsibility to supply a copy of:

- 1) The pertinent pages of the divorce decree/separation papers or
- 2) An Affidavit of Separation

## **L. LUMP-SUM RECEIPTS [24 CFR 5.609]**

Lump-sum additions to Family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses, are not included in income but may be included in assets, and must be reported, in writing, at the annual re-exam.

Lump-sum payments caused by delays in processing periodic payments such as unemployment or welfare assistance are counted as income. Lump sum payments from Social Security or SSI are excluded from income, but any amount remaining will be considered an asset. Deferred periodic payments which have accumulated due to a dispute will be treated the same as periodic payments which are deferred due to delays in processing.

In order to determine amount of retroactive tenant rent that the family owes as a result of the lump sum receipt, CMHA uses a calculation method which calculates retroactively or prospectively depending on the circumstances.

### **Prospective Calculation Methodology**

If the payment is reported on a timely basis, the calculation will be done prospectively and will result in an interim adjustment calculated as follows: The lump sum will be added in the same way for any interims which occur prior to the next annual recertification.

### **Retroactive Calculation Methodology**

If the payment is not reported on a timely basis, CMHA will go back to the date the lump-sum payment was received, or to the date of admission, whichever is closer.

At CMHA's option, CMHA may enter into a Payment Agreement with the family.

The amount owed by the family is a collectible debt even if the family becomes unassisted.

### **Attorney Fees**

The family's attorney fees may be deducted from lump-sum payments when computing annual income if the attorney's efforts have recovered a lump-sum compensation, and the recovery paid to the family does not include an additional amount in full satisfaction of the attorney fees.

## **M. CONTRIBUTIONS TO RETIREMENT FUNDS - ASSETS [24 CFR 5.603(d)]**

Contributions to company retirement/pension funds are handled as follows:

While an individual is employed, count as assets only amounts the family can withdraw without retiring or terminating employment.

After retirement or termination of employment, count any amount the employee elects to receive as a lump sum.

**N. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.603(d) (3)]**

CMHA must count assets disposed of for less than fair market value during the two years preceding certification or reexamination. CMHA will count the difference between the market value and the actual payment received in calculating total assets.

Assets disposed of as a result of foreclosure or bankruptcies are not considered to be assets disposed of for less than fair market value. Assets disposed of as a result of a divorce or separation are not considered to be assets disposed of for less than fair market value.

**O. CHILD CARE EXPENSES [24 CFR 5.603]**

Child care expenses for children under 13 may be deducted from annual income if they enable one or more adults to work or attend school, or to actively seek employment. The amount deducted shall reflect reasonable charges for child care.

The number of hours claimed for child care may not exceed the number of hours the family member(s) are attending school, including reasonable travel time to and from school.

In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income (e.g. the total amount earned by every adult who works) but only to the extent child care expenses are not reimbursed.

In the case of one or more children attending school, only after-hours care can be counted as child care expenses.

**P. MEDICAL EXPENSES [24 CFR 5.609(a) (2), 5.603]**

When it is unclear in the HUD rules as to whether or not to allow an item as a medical expense, IRS Publication 502 will be used as a guide.

Nonprescription medicines must be doctor-recommended in order to be considered a medical expense.

Nonprescription medicines will be counted toward medical expenses for families who qualify if the family furnishes legible receipts.

Acupressure, acupuncture and related herbal medicines, and chiropractic services will be

considered allowable medical expenses if doctor approved.

**Q. PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.520]**

**Applicability**

Proration of assistance must be offered to any "mixed" applicant or participant family. A "mixed" family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible members.

**Prorated Assistance Calculation**

Prorated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying that amount by the percentage of the family members who actually are eligible. Calculations for each housing program are performed on the HUD 50058 form.

**R. REDUCTION IN BENEFITS**

See Chapter 12 -Recertifications on how to handle income changes resulting from welfare program requirements.

**S. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS [24 CFR 982.153, 982.517]**

The same Utility Allowance Schedule is used for all Tenant-Based Programs.

The utility allowance is intended to assist in covering the cost of utilities not included in the rent.

The allowance is based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. Allowances are not based on an individual family's actual energy consumption.

CMHA's utility allowance schedule, and the utility allowance for an individual family, must include the utilities and services that are necessary in the locality to provide housing that complies with the Housing Quality Standards.

CMHA may not provide any allowance for non-essential utility costs, such as costs of cable or satellite television.

CMHA must classify utilities in the utility allowance schedule according to the following general categories: space heating, cooking, water heating, water, sewer, trash collection; other electric, refrigerator (amortized cost if tenant-supplied), range (amortized cost if tenant-supplied) and other specified services.

CMHA will review the utility allowance schedule annually. If the review finds a utility rate has

changed by 10 percent or more since the last revision of the utility allowance schedule, the schedule will be revised to reflect the new rate. Revised utility allowances will be applied in a participant family's rent calculation at their next annual reexamination.

The approved utility allowance schedule is given to families along with their voucher. The utility allowance is based on the family's voucher size or the actual unit size selected, whichever is smaller.

Where the calculation on the HUD 50058 results in a utility reimbursement payment due the family [24 CFR 982.514(b)], CMHA will provide a utility reimbursement payment for the family each month. The payment will be made out directly to the tenant.

## **T. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS**

CMHA will not reduce the income for families whose welfare assistance is reduced specifically because of:

- Fraud by a family member in connection with the welfare program; or
- Failure to participate in an economic self-sufficiency program; or
- Noncompliance with a work activities requirement.

CMHA, however, will reduce the income if the welfare assistance reduction is a result of:

- The expiration of a lifetime time limit on receiving benefits; or
- A situation where a family member has not complied with other welfare agency requirements; or
- A situation where a family member has complied with welfare agency economic self-sufficiency or work activities requirements, but cannot or has not obtained employment, such as the family member has complied with welfare program requirements, but the durational time limit, such as a cap on the length of time a family can receive benefits, causes the family to lose their welfare benefits.

Imputed welfare income is the amount of annual income not actually received by the family as a result of a specified welfare benefit reduction that is included in the family's income for rental contribution. Imputed welfare income is not included in annual income if the family was not an assisted resident at the time of sanction.

The amount of imputed welfare income is offset by the amount of additional income a family receives that begins after the sanction was imposed. When additional income is at least equal to the imputed welfare income, the imputed welfare income is reduced to zero.

### **Verification Before Denying a Request to Reduce Rent**

CMHA will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance with economic self-sufficiency or work activities requirements before denying the family's request for rent reduction.



The welfare agency, at the request of CMHA, will inform CMHA of:

- Amount and term of specified welfare benefit reduction for the family;
- Reason for the reduction; and
- Subsequent changes in term or amount of reduction.

### **Cooperation Agreements**

CMHA has an unwritten cooperation agreement in place with the local welfare agency which assists CMHA in obtaining the necessary information regarding welfare sanctions.

CMHA has taken a proactive approach in culminating an effective working relationship between CMHA and the local welfare agency for the purpose of targeting economic self-sufficiency programs throughout the community that are available to HCVP and public housing residents.

## **VII. CHAPTER 7-VERIFICATION PROCEDURES**

**[24 CFR Part 5, Subparts B, D, E and F; 24 CFR 982.158; 24 CFR 5.617]**

### **A. INTRODUCTION**

HUD requires PHAs to use the EIV system in its entirety to verify tenant employment and income information during mandatory reexaminations of family composition and income.

Applicants and program participants must provide true and complete information to CMHA whenever information is requested. CMHA's verification requirements are designed to maintain program integrity. This chapter explains CMHA's procedures and standards for verification of preferences, income, assets, allowable deductions, family status, and changes in family composition. CMHA will obtain proper authorization from the family before requesting information from independent sources.

### **B. METHODS OF VERIFICATION AND TIME ALLOWED [24 CFR 982.516]**

CMHA will verify information through the six methods of verification acceptable to HUD in the following order:

1. Enterprise Income Verification (EIV) (Mandatory)
2. Upfront Income Verification (UIV) (Optional)
3. Written Third Party Verification – (Tenant Provided Documentation)
4. Written Third Party Verification – (Traditional Third Party)
5. Oral Third Party Verification
6. Tenant Declaration

For applicants, income verifications may not be more than 60 days old at the time of voucher issuance. For participants, tenant provided documents should be dated within the last 120 days of the reexamination certification effective date. Pay stubs should be current and consecutive.

#### **Enterprise Income Verification – (EIV)**

The verification of income before or during a family reexamination, through the HUD mandated EIV system which systematically and uniformly maintains income information in computerized form for a number of individuals.

#### **Upfront Income Verification – (UIV)**

The verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for

a number of individuals.

### **Written Third Party Verification (Tenant Provided Documentation)**

An original or authentic document generated by a third party source dated either within the 60-day period preceding the reexamination or CMHA request date. Such documentation may be in the possession of the tenant (or applicant), and is commonly referred to as tenant-provided documents. CMHA may, at its discretion, reject any tenant-provided documents and follow up directly with the source to obtain necessary verification of information.

The participant is required to supply any information requested by CMHA for use in a regularly scheduled annual or interim reexamination of family income and composition in accordance with HUD requirements. CMHA may determine that the participant is not in compliance with program requirements and terminate tenancy or assistance, or both, if the tenant fails to provide the requested information within the time period requested by CMHA.

### **Written Third-Party Verification (Traditional Third Party)**

Written third-party verification is used to verify information directly with the source. Third-party written verification forms will be sent and returned via first class mail, fax or email. The family will be required to sign an authorization for the information source to release the specified information.

Verifications received electronically directly from the source are considered third party written verifications.

Written third party verification returned more than 60 days from the processing date will be deemed late and will not be used in the verification process; such documents shall be forwarded to the client file. If written third-party verification is delayed or not possible, CMHA will attempt to obtain information through oral verification.

### **Oral Third-Party Verification**

Oral third-party verification will be used when written third-party verification is not possible. When third-party oral verification is used, staff will be required to document with whom they spoke, the date of the conversation, and the facts provided. If provided by telephone, CMHA must originate the call.

### **Tenant Declaration**

When verification cannot be made by third-party verification or review of documents, families will be required to submit a self-certification.

Self-certification means a notarized statement or an affidavit under penalty of perjury.

## **C. RELEASE OF INFORMATION [24 CFR 5.230]**

Adult family members, including spouse and/or co-head, regardless of age, will be required to

sign the HUD 9886 Release of Information/Privacy Act form.

In addition, family members will be required to sign specific authorization forms when information is needed that is not covered by the HUD form 9886, Authorization for Release of Information/Privacy Act Notice.

Each adult member requested to consent to the release of specific information will be provided with a copy of the appropriate forms for their review and signature.

Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of assistance because it is a family obligation to supply any information and to sign consent forms requested by a PHA or HUD.

#### **D. ITEMS TO BE VERIFIED [24 CFR 982.516]**

- All income not specifically excluded by the regulations
- A copy of prior year income tax returns may be requested for all household members filing an IRS tax return.
- Full-time student status including high school students who are 18 or over.
- Current assets including assets disposed of for less than fair market value in the preceding two years and income from assets.
- Child care expense where it allows an adult family member to be employed or to further his/her education.
- Total medical expenses of all family members in households whose head or spouse is elderly or disabled.
- Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus for a disabled member of the family, which allow an adult family member to be employed.
- Disability for determination of preferences, allowances or deductions.
- U.S. citizenship/eligible immigrant status.
- Social Security numbers for all family members.
- Verification of reduction in benefits for noncompliance:
- CMHA will obtain written verification from the welfare agency stating that the family's

benefits have been reduced for fraud or noncompliance before denying the family's request for rent reduction.

- Live-in-aide proof of residency
- Eligibility of Students for Assisted Housing Under Section 8 of the Housing Act of 1937

#### **E. VERIFICATION OF INCOME [24 CFR 982.516]**

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head-of-household to report changes in family composition, in writing, within 30 days of the change by submitting an Interim (See Recertifications Chapter 12). The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

##### **Summary of Income Included and Excluded by Person**

Live-in-aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(c)(2)].
Head, spouse, or co-head Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full time students 18 years of age or older (not head, spouse or co-head)	Employment income above \$480 per year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

This section defines the methods CMHA will use to verify various types of income.

#### **Employment Income**

Verification of employment which specifies:

- 1) Dates of employment
- 2) Amount and frequency of pay
- 3) Estimated income from overtime, tips, bonus pay expected during next 12 months

**Acceptable Methods of Verification include, in this order:**

Enterprise Income Verification (EIV) with one of the following in this order:

- 1) Upfront Income Verification (Work Number)
- 2) Minimum of two months of tenant provided, consecutive check stubs or earning statements, which indicate the employee's gross pay, frequency of pay or year to date earnings
- 3) Employment verification form completed by the employer
- 4) Oral verification of employment information
- 5) W-2 or 1099 forms plus income tax return forms
- 6) Self-certifications or income tax returns signed by the family may be used for verifying self-employment income, or income from tips and other gratuities

In cases where there are questions about the validity of information provided by the family, CMHA may require the most recent federal income tax statements.

**Social Security, Pensions, Supplementary Security Income (SSI), Disability Income**

Acceptable methods of verification include, in this order:

- 1) EIV (Enterprise Income Verifications) Data
- 2) Award or benefit notification letters prepared and signed by the providing agency
- 3) Computer report electronically obtained or in hard copy

**Unemployment Compensation**

Acceptable methods of verification include, in this order:

- 1) Enterprise Income Verifications
- 2) Letter from unemployment office
- 3) Payment stubs

**Welfare Payments or General Assistance**

Acceptable methods of verification include, in this order:

- 1) UIV (Upfront Income Verification)
- 2) Written statement from payment provider indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months
- 3) Computer-generated Notice of Action
- 4) Computer-generated list of recipients from Welfare Department
- 5) CMHA verification form completed by payment provider

**Alimony or Child Support Payments**

Acceptable methods of verification include, in this order:

- 1) UIV with electronic verification through ODJFS
- 2) Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.
- 3) Copy of latest check and/or payment stubs from court trustee.
- 4) A letter from the person paying the support.

If payments are irregular, the family must provide an accurate statement of income:

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- 1) Documentation proving information that the obligor will be unable to make future payments (e.g. incarceration)
- 2) Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

### **Net Income from a Business**

In order to verify the net income from a business, CMHA will view IRS and financial documents from prior years and use this information to anticipate the income for the next 12 months.

Acceptable methods of verification include:

- 1) IRS Form 1040, including:
  - a. Schedule C (Small Business)
  - b. Schedule E (Rental Property Income)
  - c. Schedule F (Farm Income)

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

- 2) Audited or unaudited financial statement(s) of the business.
- 3) Documents such as manifests, appointment books, cash books, bank statements, and receipts will be used as a guide for the prior six months (or lesser period if not in business for six months) to project income for the next 12 months. The family will be advised to maintain these documents in the future if they are not available.
- 4) Family's notarized self-certification as to net income realized from the business during previous years.

### **Child Care Business**

If an applicant/participant is operating a licensed day care business, income will be verified as with any other business.

If the applicant/participant is operating a "cash and carry" operation (which may or may not be licensed), CMHA will require that the applicant/participant complete a form for each customer which indicates: name of person(s) whose child (children) is/are being cared for, phone number, number of hours child is being cared for, method of payment (check/cash), amount paid, and signature of person.

If the family has filed a tax return, the family will be required to provide it.

### **Recurring Gifts**

The family must furnish a notarized self-certification that must include the following information:

- 1) The person who provides the gifts
- 2) The value of the gifts
- 3) The regularity (dates) of the gifts

4) The purpose of the gifts

**Zero Income Status**

Families claiming to have no income will be required to provide documentation and/or execute forms to determine that forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household. If the family has filed a tax return, the family may be required to provide it.

CMHA may run a credit report if information is received that indicates the family has an unreported income source.

**Full-Time Student Status**

Only the first \$480 of the earned income of full-time students, other than head, co-head, or spouse, will be counted towards family income.

**Income of Students Enrolled in an Institution of Higher Education**

In 2005, Congress passed a law (for Section 8 program only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

**Student Financial Assistance Included in Annual Income [24 CFR 5.609(b)(9) and FR 3/8/16]**

Any financial assistance a student receives in excess of amounts received for tuition and other required fees and charges under the Higher Education Act of 1965, from private sources, or from an institution of higher education shall be included as income to that individual when they are enrolled in an institution of higher education unless the individual is a person over the age of 23 with dependent children.

To determine annual income in accordance with the above requirements, CMHA will use the definitions of *dependent child*, *institution of higher education*, and *parents* in section 3-II.E, along with the following definitions [FR 4/10/06, pp. 18148 – 18150]:

- *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs. Loan proceeds are not included.
- *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
- *Tuition* will have the meaning given this term by the institution of higher education in



which the student is enrolled.

- Required fees and charges include all fixed sum charges that are required of a large proportion of all students. These often include, but are not limited to, student service fees, student association fees, student activities fees, and laboratory fees.

**Student Financial Assistance Excluded from Annual Income [24 CFR 5.609(c)(6)]**

Any student financial assistance not subject to inclusion under 24 CFR 5.609(b)(9) is fully excluded from annual income under 24 CFR 5.609(c)(6), whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

- Students residing with parents who are seeking or receiving Section 8 assistance.
- Students who are enrolled in an educational institution that does **not** meet the 1965 HEA definition of *institution of higher education*.
- Students who are over 23 **AND** have at least one dependent child, as defined in section 3-II.E.
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

**Verification of full time student status includes:**

- 1) School records indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution.
- 2) Written verification from the registrar's office or other school official.

**F. VERIFICATION OF ASSETS AND INCOME FROM ASSETS [24 CFR 982.516]**

CMHA will verify all family assets at application.

CMHA will, at re-examination, accept a family's declaration of the amount of total net family assets of \$5,000 or less, and the amount of income to be received from those assets. CMHA's re-examination documentation, which is signed by all adult family members, may serve as the declaration. Where the family has total net family assets equal to or less than \$5,000, CMHA does not need to request supporting documentation (e.g. bank statements) from the family to confirm the assets or the amount of income expected to be received from those assets. Assets are required to be verified every 3 years at re-examination.

Where the family has total net family assets equal to or in excess of \$5,000.01, CMHA must verify at each re-examination, by obtaining supporting documentation (e.g. bank statements) from the family to confirm the assets. Any assets will continue to be reported on HUD 50058.

Acceptable documentation is described below.

**Assets:**

- 1) Verification forms, letters, or documents from a financial institution or broker.
- 2) Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker
- 3) Quotes from a stockbroker or real estate appraiser as to net amount family would receive if they liquidated securities or real estate.
- 4) Real estate tax statements if the approximate current market value can be deduced from assessment.
- 5) Financial statements for business assets.
- 6) Copies of closing documents showing the selling price and the distribution of the net sales proceeds
- 7) Appraisals of personal property held as an investment.
- 8) Family's notarized self-certification describing assets or cash held at the family's home or in safe deposit boxes.
- 9) ATM receipt with identifying information such as name or verifiable account number and notarized self-certification.

**Income from Assets:**

**Savings/Checking Account Interest Income and Dividends**

Acceptable methods of verification include, in this order:

- 1) Account statements, passbooks, certificates of deposit, or CMHA verification forms completed by the financial institution.
- 2) If the savings or checking account balance is greater than \$5,000, third-party verification will be conducted.
- 3) Broker's statements showing value of stocks or bonds and the earnings credited the family. Earnings can be obtained from current newspaper quotations or oral broker's verification.
- 4) IRS Form 1099 from the financial institution provided that CMHA must adjust the information to project earnings expected for the next 12 months.

**Interest Income from Mortgages or Similar Arrangements**

Acceptable methods of verification include, in this order:

- 1) A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for next 12 months. (A copy of the check paid by the buyer to the family is not sufficient unless a breakdown of interest and principal is shown.)
- 2) Amortization schedule showing interest for the 12 months following the effective date of the certification or recertification.

**Net Rental Income from Property Owned by Family**

Acceptable methods of verification include, in this order:

- 1) IRS Form 1040 with Schedule E (Rental Income).
- 2) Copies of latest rent receipts, leases, or other documentation of rent amounts.
- 3) Documentation of allowable operating expenses of the property: tax statements,

insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

- 4) Lessee's statement verifying rent payments to the family and family's self-certification as to net income realized.

### **Assets Disposed of for Less than Fair Market Value (FMV) During Two Years Preceding Effective Date of Certification or Recertification**

For all certifications and re-certifications, CMHA will obtain the family's certification as to whether any member has disposed of assets for less than FMV during the two years preceding the effective date of the certification or recertification.

If the family certifies that they have disposed of assets for less than FMV, verification/certification is required that shows: (a) all assets disposed of for less than FMV, (b) the date they were disposed of, (c) the amount the family received, and (d) the market value of the assets at the time of disposition. Third party verification will be obtained wherever possible.

## **G. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME [24 CFR 982.516]**

### **Child Care Expenses**

Written verification from the person who receives the payments is required. If the child care provider is an individual, s/he must provide a statement of the amount the family is being charged for the services.

Verifications must specify the child-care provider's name, address, telephone number, the names of the children cared for, the number of hours the child-care occurs, and the rate of pay. If the family cannot obtain the statement from the child-care provider, self-certification will be accepted, coupled with a review of other documents indicating that expenses are, in fact, incurred.

### **Medical Expenses**

Families who claim medical expenses will be required to submit a certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source. HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean, "medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance". The most current IRS Publication 502, *Medical and Dental Expenses*, will be used to determine the costs that qualify as medical expenses. All expense claims will be verified by one or more of the methods listed below:

- 1) Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and (b) extent to which those expenses will be reimbursed by insurance or a government agency. Computerized third party printouts are acceptable verification.
- 2) Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.

- 3) Written confirmation from the Social Security Administration of Medicare premiums to be paid by the family over the next 12 months. A computer printout will be accepted.
- 4) Self-certification when doctor, hospital, insurance company, social security, etc. refuse to provide written confirmation, coupled with a review of documents indicating that expenses are, in fact, incurred (e.g. copies of checks, office visit receipts).

**For attendant care:**

- 1) A reliable, knowledgeable professional's certification that the assistance of an aide is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.
- 2) Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or stubs from the agency providing the services
- 3) Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months.
- 4) Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next 12 months.
- 5) Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses. CMHA may use this approach for "general medical expenses" such as non-prescription drugs and regular visits to doctors or dentists, but not for one time, nonrecurring expenses from the previous year.

**Assistance to Persons with Disabilities [24 CFR 5.611(c)]**

**In All Cases:**

- 1) Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an aide and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another family member to be employed.
- 2) Family's notarized certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

**Attendant Care:**

- 1) Attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided.
- 2) Certification of family and attendant and/or copies of canceled checks family used to make payments.

**Auxiliary Apparatus:**

- 1) Receipts for purchases or proof of monthly payments and maintenance expenses for auxiliary apparatus.
- 2) In the case where the person with disabilities is employed, a statement from the employer that the auxiliary apparatus is necessary for employment.

## **H. VERIFYING NON-FINANCIAL FACTORS Verification of Legal Identity**

In order to prevent program abuse, CMHA will require applicants/participants to furnish verification of legal identity for all family members.

CMHA will require families to furnish one of the items in the chart below to verify legal identity for each household member. If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

<b>Verification of Legal Identity for Adults</b>	<b>Verification of Legal Identity for Children</b>
Certificate of birth, naturalization papers	Certificate of birth
Acceptable photo identification (driver's license, Department of Motor Vehicles identification card, VA-issued photo ID, or school ID.)	U.S. passport
U.S. military discharge (DD214)	Adoption papers
U.S. passport	Custody agreement
Employer identification card	Health and Human Services ID
Other government issued picture identification as approved by a supervisor	School records
	Birth letter
	Current, valid driver's license or Department of Motor Vehicles identification card
	Other government document as approved by a supervisor

### **Verification of Marital Status**

INSTRUCTION: This would be used to determine spouse for purposes of the Noncitizen Rule:

- 1) Verification of divorce status will be a certified copy of the divorce decree, signed by a Court Officer.
- 2) Verification of a separation may be a copy of court-ordered maintenance, affidavit of separation, or other records approved by CMHA.
- 3) Verification of marriage status is a marriage certificate.

### **Familial Relationships**

The following verifications will always be required if applicable:

#### **Verification of relationship:**

- 1) Official identification showing names
- 2) Birth Certificates

**Verification of guardianship is:**

- 1) Court-ordered assignment
- 2) Verification from social services agency

**Verification of Permanent Absence of Family Member**

If an adult member who was formerly a member of the household is reported permanently absent by the family, CMHA will consider any of the following as verification:

- 1) Husband or wife institutes divorce action.
- 2) Husband or wife institutes legal separation.
- 3) Order of protection/restraining order obtained by one family member against another.
- 4) Proof of another home address, such as utility bills, canceled checks for rent, drivers license, or lease or rental agreement, if available.
- 5) Statements from other agencies such as social services or a written statement from the landlord or manager that the adult family member is no longer living at that location.
- 6) If the adult family member is incarcerated, a document from the Court or correctional facility should be obtained stating how long they will be incarcerated.
- 7) If no other proof can be provided, CMHA will accept an affidavit from the head of household explaining the absence of a family member.

**Verification of Change in Family Composition**

CMHA may verify changes in family composition (either reported or unreported) through letters, telephone calls, utility records, inspections, landlords, neighbors, credit data, school or Bureau of Motor Vehicle (BMV) records, and other sources.

**Verification of Citizenship/Eligible Immigrant Status [24 CFR 5.508, 5.510, 5.512, 5.514]**

To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants. Individuals who are neither may elect not to contend their status.

Eligible immigrants must fall into one of the categories specified by the regulations and must have their status verified by the Immigration and Naturalization Service (INS). Each family member must declare their status once. Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while the CMHA hearing is pending.

Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury.

Eligible Immigrants who were Participants and 62 or over on June 19, 1995, are required to sign a declaration of eligible immigration status and provide proof of age.

Non-citizens with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents which are copied front and back and returned to the family. CMHA verifies the status through the INS SAVE system. If this primary verification fails to verify status, CMHA must request within ten days that the INS

conduct a manual search.

Ineligible family members who do not claim to be citizens or eligible immigrants must be listed on a statement of ineligible family members signed by the head of household or spouse.

Non-citizen students on student visas are ineligible members even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they do not sign a declaration but are listed on the statement of ineligible members.

If an applicant or participant family member fails to sign required declarations and consent forms or provide documents, as required for verification of U.S. citizenship/eligible immigrant status, they must be listed as an ineligible member. If the entire family fails to provide and sign as required, the family may be denied or terminated for failure to provide required information.

### **Time of Verification**

For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same time as verification of other factors of eligibility for final eligibility determination.

CMHA will not provide assistance to any family prior to the affirmative establishment and verification of the eligibility of the individual or at least one member of the family.

Once verification has been completed for any covered program, it need not be repeated except that, in the case of port-in families, if the initial PHA does not supply the documents, CMHA must conduct the determination.

### **Extensions of Time to Provide Documents**

CMHA will grant an extension of 30 days for families to submit evidence of eligible immigrant status.

### **Acceptable Documents of Eligible Immigration**

The regulations stipulate that only the following documents are acceptable unless changes are published in the Federal Register.

- Resident Alien Card (I-551)
- Alien Registration Receipt Card (I-151)
- Arrival-Departure Record (I-94)
- Temporary Resident Card (I-688)
- Employment Authorization Card (I-688B)
- Receipt issued by the INS for issuance of replacement of any of the above documents that shows individual's entitlement has been verified

A birth certificate is not acceptable verification of status. All documents in connection with U.S. citizenship/eligible immigrant status must be kept five years.

If CMHA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside permanently in the family's unit, the family's assistance may be terminated, unless the ineligible individual has already been considered in prorating the family's assistance.

#### **Verification of Social Security Numbers [24 CFR 5.216]**

If a family member cannot produce a Social Security card, documentation provided by the Social Security Administration or other official government agency will be accepted if it displays the full name and Social Security Number of the family member.

The Head of Household will be required to produce Social Security Cards or documentation from the Social Security Administration for all family members. This information is to be provided at application or at the time the change in family composition is reported to CMHA.

In the case of an individual at least 62 years of age, CMHA may grant an extension for an additional 60 days to a total of 120 days. If, at the end of this time, the elderly individual has not provided documentation, the family's assistance may be terminated.

#### **Applicants-**

- If a child under the age of 6 years old was added to the applicant family household within the 6 month period prior to the date of voucher issuance, the applicant family may become a participant, so long as the required Social Security verification documents is provided to CMHA within 90 calendar days from the date of the effective date of Housing Assistance Payment contract. CMHA shall grant an extension of one additional 90-day period if CMHA, determines that the applicant's failure to comply was due to circumstances that could not have reasonably been foreseen and were outside the control of the applicant. If the family fails to produce the documentation required within the required time period, CMHA may proceed to terminate the family from the program pursuant to 24 CFR 5.218.

#### **Participants-**

- Addition of new household member who is at least 6 years of age or under the age of 6 and has an assigned Social Security Number- When a participant requests to add a new household member who is at least 6 years of age, or is under the age of 6 and has an assigned SSN, the participant must provide to CMHA at the time of processing the interim reexamination or recertification of family composition that includes the new member(s):
  - (A) The complete and accurate SSN assigned to each new member; and
  - (B) The documentation required to verify the SSN for each.
- Addition of new household member who is under the age of 6 and has no assigned SSN- When a participant requests to add a new household member who is under the age of 6 and has not been assigned a SSN, the participant shall be required to provide the complete and accurate SSN assigned to each new child and the documentation required to



verify the SSN within 90 days of the child being added to the household. CMHA shall grant an extension of one additional 90-day period if it, in its discretion, determines that the participant's failure to comply was due to circumstances that could not have reasonably been foreseen and were outside the control of the participant. During the period that the processing entity is awaiting documentation of a SSN, the processing entity shall include the child as part of the assisted household and the child shall be entitled to all the benefits of being a household member. If, upon expiration of the provided time period, the participant fails to produce a SSN, shall terminate assistance pursuant to 24 CFR 5.218.

In regard to verifying Social Security numbers (SSNs) for homeless veterans and their family members, an original document issued by a federal or state government agency, which contains the name of the individual and the SSN of the individual along with other identifying information of the individual, is acceptable in accordance with 24 CFR part 5.216(g). In the case of the homeless veteran, CMHA must accept the Certificate of Release or Discharge from Active Duty (DD-214) or the VA-verified Application for Health Benefits (10-10EZ) as verification of SSN and cannot require the veteran to provide a SSN card. These documents must also be accepted for proof-of-age purposes in lieu of birth certificates or other required documentation. Veterans are also issued photo identification cards by the VA. These cards must be accepted by CMHA in lieu of another type of government-issued photo identification. These cards may also be used to verify SSNs and date of birth.

#### **I. CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE SEXUAL ASSAULT OR STALKING (SECTION 606 AND 607 OF VAWA)**

The owner, manager, or CMHA may request that an individual certify in writing via a HUD approved certification form that the individual is a victim of domestic violence, dating violence, sexual assault or stalking. The certification form will be completed, signed and dated by the victim to certify he/she is the victim of domestic violence, dating violence, sexual assault or stalking, and that the incident or incidences are bona fide incidences of such actual or threatened abuse. The victim shall include the name of the perpetrator. The individual shall provide such certification within 14 business days after the owner, manager, or public housing agency requests such certification.

Other acceptable documentation in lieu of or in addition to the certification form:

- 1) Federal, State, tribal, territorial, or local police or court record.
- 2) Documentation signed and attested to by an employee, agent or volunteer of victim service providers, an attorney or a medical professional from whom the victim has sought assistance in addressing the domestic violence or abuse. The professional must attest under penalty of perjury (28U.S.C. 1746) that to their belief that the incident or incidents in question are bona fide incidents of abuse.

#### **J. CLAIMS OF IDENTITY THEFT**

Families disputing information due to identity theft must provide documentation of their attempt to correct the misinformation. Documentation includes: Police report, FCC claim letter, Letter to

erroneous reporting agency. Documentation must be provided within 30 days of the re-examination or application, or the information being disputed may be used by CMHA.

## **VIII. CHAPTER 8-VOUCHER ISSUANCE AND BRIEFINGS**

### **A. INTRODUCTION**

CMHA's goals and objectives are designed to assure that families selected to participate are equipped with the tools necessary to locate an acceptable housing unit. Families are provided with sufficient knowledge and information regarding the program and how to achieve maximum benefit while complying with program requirements. When eligibility has been determined, CMHA will conduct a mandatory briefing to ensure that families know how the program works. The briefing will provide a broad description of owner and family responsibilities, CMHA procedures, and how to lease a unit. The family will also receive a briefing packet which provides more detailed information about the program including the benefits of moving outside areas of poverty and minority concentration. This chapter describes how briefings will be conducted, the information that will be provided to families, and the policies for how changes in the family composition will be handled.

### **B. ISSUANCE OF VOUCHERS [24 CFR 982.204(d), 982.54(d)(2)]**

When funding is available, CMHA will issue vouchers to applicants whose eligibility has been determined. The number of vouchers issued must not exceed voucher allocation.

### **C. BRIEFING TYPES AND REQUIRED ATTENDANCE [24 CFR 982.301]**

#### **1. Initial Applicant Briefing**

A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in groups. Families who attend group briefings and still have the need for individual assistance will be referred to an eligibility specialist. Briefings will be conducted in English; however, Spanish speaking staff are available to assist Spanish speaking applicants. Translation services for all languages are available upon request. Refer to CMHA's Language Assistance Plan (LAP) for Limited English Proficient (LEP) persons.

The purpose of the briefing is to explain how the program works and provide written documentation to families so that they are fully informed about the program. This will enable them to utilize the program to their advantage, and it will prepare them to discuss it with potential owners and property managers.

CMHA will not issue a voucher to an applicant family unless the household representative has attended a briefing and signed the voucher. Applicants who provide prior written notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants, who fail to attend two scheduled briefings, may be denied admission. CMHA will conduct individual briefings for families with disabilities at their home, upon request by the family, if required for reasonable accommodation.

## **2. Moves Under the Voucher Program**

Helpful information to families moving is presented a group annual appointment meetings throughout the year.

CMHA will complete a criminal background check on all adult family members age 18 and over at the time a move is requested. CMHA may deny assistance to move or terminate program assistance if any family member engaged in criminal or drug related activity as described in 982.551, 982.552 or 982.553; or has engaged in other related program violations. (See Chapter 15-Denial or Termination of Assistance) In conducting criminal background checks on families who move, checks will only be conducted from the date of the family's admission to the program or after. CMHA will not consider the time period previously reviewed in its admission determination for the household, except where a mandatory termination is required by law. In addition, in conducting the criminal background check, CMHA will not consider a time period in excess of three years for:

- a) Drug related criminal activity;
- b) Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity;
- c) Other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of CMHA, including a CMHA employee or CMHA contractor, subcontractor or agent; or
- d) For three years for violent criminal activity. CMHA only considers felony level criminal activity unless otherwise required by the CFR.
- e) The time begins three years after incarceration or any court ordered supervision. Court ordered supervision means probation or any other court ordered requirements.

### **Briefing Packet [24 CFR 982.301(b)]**

The documents and information provided in the briefing packet for the voucher program will comply with all HUD requirements.

When CMHA selects a family to participate in a tenant-based or project-based program, CMHA must give the family an oral briefing.

The briefing must include information on the following subjects:

- A description of how the program works;
- Family and owner responsibilities;

- Where the family may lease a unit, including renting a dwelling unit inside or outside CMHA's jurisdiction.
- Information on selecting a unit
- The briefing must include an explanation of how portability works. CMHA may not discourage the family from choosing to live anywhere in CMHA's jurisdiction, or outside CMHA's jurisdiction under portability procedures.
- The briefing must also explain the advantages of moving to an area that does not have a high concentration of low income families.
- In briefing a family that includes any person with a disability, CMHA must take appropriate steps to ensure effective communication in accordance with 24 CFR 8.6.
- In briefing a welfare-to-work family, CMHA must include specification of any local obligations of a welfare-to-work family and an explanation that failure to meet these obligations is grounds for CMHA denial of admission or termination of assistance.

CMHA must give the family a packet that includes information on the following subjects:

- 1) The term of the voucher, suspensions of the term and the CMHA policy on any extensions of the term. If CMHA allows extensions, the packet must explain how the family can request an extension;
- 2) How CMHA determines the amount of the housing assistance payment for a family, including:
  - a. How CMHA determines the payment standard for a family; and
  - b. How CMHA determines the total tenant payment for a family.
- 3) How CMHA determines the maximum rent for an assisted unit;
- 4) Where the family may lease a unit. The information packet must include an explanation of how portability works;
- 5) The HUD-required tenancy addendum that must be included in the lease;
- 6) The form that the family uses to request CMHA approval of the assisted tenancy, and an explanation of how to request such approval;
- 7) A statement of CMHA's policy on providing information about a family to prospective owners;
- 8) CMHA subsidy standards, including when CMHA will consider granting exceptions to the standards;
- 9) The HUD brochure on how to select a unit;
- 10) Information on federal, State and local equal opportunity laws, and a copy of the housing discrimination complaint form;
- 11) A list of landlords known to CMHA who may be willing to lease a unit to the family, or other resources that may assist a family in locating a unit;
- 12) Notice that if the family includes a person with a disability, the family may request a current listing of accessible units known to CMHA that may be available;

- 13) Family obligations under the program;
- 14) Family obligations under the program, including any obligations of a welfare-to-work family.
- 15) The advantages of areas that do not have a high concentration of low-income families.

If the family includes a person with disabilities, CMHA will ensure compliance with 24 CFR 8.6 to ensure effective communication.

#### **D. ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW INCOME OR MINORITY CONCENTRATION**

At the briefing, families are encouraged to search for housing in non-impacted areas, and CMHA will provide assistance to families who wish to do so.

CMHA makes available to families information on areas without poverty and minority concentration. The information is clearly delineated in order to encourage families to seek housing opportunities outside highly concentrated areas.

CMHA has maps that show various areas and information about facilities and services in neighboring areas such as schools, transportation, and supportive and social services.

The assistance provided to such families includes:

- Formal or informal discussions with landlord groups
- Formal or informal discussions with social service agencies
- Meeting with rental referral companies or agencies
- Meeting with fair housing groups or agencies

#### **E. ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION**

CMHA will give participants a copy of HUD Form 903 to file a complaint. CMHA will refer participants to the local fair housing agency for discrimination claims.

#### **F. SECURITY DEPOSIT REQUIREMENTS [24 CFR 982.313]**

The owner may collect a security deposit from the tenant.

Security deposits charged by owners may not exceed those charged to unassisted tenants or the maximum prescribed by State or local law.

#### **G. TERM OF VOUCHER [24 CFR 982.303, 982.54(d)(11)]**

During the briefing session, each household will be issued a voucher which represents a contractual agreement between CMHA and the Family specifying the rights and responsibilities of each party. It does not constitute admission to the program which occurs when the lease and contract become effective.

## **Expirations**

- Certified eligible applicants will be issued a voucher with a term of 120 days. Extensions may be granted as a Reasonable Accommodation or as approved by management for extenuating circumstances.
- Participants (voucher holders under contract aka “movers”) will be issued a voucher with a term of 120 days. Extensions may be granted as a Reasonable Accommodation or as approved by management for extenuating circumstances.  
Participants whose contracts have cancelled for reasons beyond the control of the family will be issued a 120 day voucher. The family will be withdrawn and any open voucher will be expired if the family remains out of contract for more than 180 days.

## **Suspensions (Tolling)**

When a Request for Tenancy Approval is received, CMHA will freeze the number of days on the term of the voucher while the request is being processed.

## **Extensions**

Extensions are permissible at the discretion of CMHA primarily for these reasons:

- 1) Extenuating circumstances such as hospitalization or a family emergency for an extended period of time which has affected the family's ability to find a unit within the initial 120-day period. Verification is required.
- 2) If the family was prevented from finding a unit due to disability accessibility requirements or large size (three or more) bedroom unit requirement.
- 3) Families that have been making a reasonable, good faith effort to find an appropriate unit, but have been unable to find a unit within the initial term.
- 4) As a reasonable accommodation.

## **Assistance to Voucher Holders**

Families who require additional assistance during their search may call CMHA to request assistance. Voucher holders will be notified at their briefing session that CMHA periodically updates the listing of available units and how the updated list may be obtained.

CMHA will operate in compliance with 24 CFR 8.28.

## **H. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS [24 CFR 982.315]**

In those instances when a family assisted under the HCVP Program becomes divided into two otherwise eligible families due to divorce, legal separation, or the division of the family, and the new families cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, the supervisor or manager shall consider the following factors to determine which of the families will continue to be assisted:

- Which of the two new family units has custody of dependent children.

- Which family member was the head of household when the voucher was initially issued (listed on the initial application).
- The composition of the new family units, and which unit contains elderly or disabled members.
- Whether domestic violence was involved in the breakup.
- Which family members remain in the unit.
- Recommendations of social service professionals.

Documentation of these factors will be the responsibility of the requesting parties. If documentation is not provided, CMHA will terminate assistance on the basis of failure to provide information necessary for a recertification.

#### **I. REMAINING MEMBER OF TENANT FAMILY - RETENTION OF VOUCHER [24 CFR 982.315]**

To be considered, the remaining member must be an approved adult living in the unit. Live in Aides are not considered family members. If the remaining family members are children and there is an order from the court and/or documentation from a social service agency that has awarded custodial arrangements for those children, then CMHA will determine who, if anyone will retain the voucher.

See Chapter 6, Section E. Definition of Temporary/Permanent Absence, “Absence of Head of Household”.



## **IX. CHAPTER 9-REQUEST FOR TENANCY APPROVAL AND CONTRACT EXECUTION**

### **A. INTRODUCTION [24 CFR 982.305(a)]**

CMHA's program operations are designed to utilize available resources in a manner that is efficient and provides eligible families timely assistance based on the number of units that have been budgeted. CMHA's objectives include maximizing HUD funds by providing assistance to as many eligible families and for as many eligible units as the budget will allow.

After families are issued a voucher, they may search for a unit anywhere within the jurisdiction of CMHA, or outside of CMHA's jurisdiction if they qualify for portability. The family must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a Housing Assistance Payments Contract with CMHA. This chapter defines the types of eligible housing, CMHA's policies which pertain to initial inspections, lease requirements, owner disapproval, and the processing of Requests for Tenancy Approval (RFTA).

### **B. REQUEST FOR TENANCY APPROVAL (RFTA)[24 CFR 982.302, 982.305(b)]**

The RFTA and a copy of the proposed/sample lease, including the HUD prescribed tenancy addendum, must be submitted by the family during the term of the voucher. The family must submit the RFTA in the form and manner required by CMHA. CMHA will not permit the family to submit more than one RFTA at a time. CMHA will review the proposed/sample lease and the RFTA documents to determine whether or not they are approvable. The request will be approved if:

- The RFTA is signed by both the owner and voucher holder.
- The unit is an eligible type of housing.
- The unit is not currently in foreclosure or receivership.
- The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan).
- The rent is reasonable.
- The proposed/sample lease complies with HUD and CMHA requirements (See "Lease Review" section below).
- The owner is approvable, and there are no conflicts of interest.

In addition to the above, at the time a family initially receives assistance in a unit (new admissions and moves), if the gross rent for the unit exceeds the applicable payment standard for the family, the family share of rent may not exceed 40 percent of the family monthly adjusted income. (See "Owner Rents, Rent Reasonableness and Payment Standards" - Chapter 11 of this Administrative Plan.)

### **Disapproval of RFTA**

If CMHA determines that the request cannot be approved for any reason, the landlord and the family will be notified. CMHA will instruct the owner and family of the steps that are necessary to approve the request.

When, for any reason, an RFTA is not approved, CMHA will furnish another RFTA form to the family provided that time remains on the term of the voucher so that the family can continue to search for eligible housing.

### **C. ELIGIBLE TYPES OF HOUSING [24 CFR 982.353]**

CMHA will approve any of the following types of housing in the voucher program:

- All structure types can be utilized.
- Single room occupancy.
- Manufactured homes where the tenant leases the mobile home and the pad.
- Congregate/Shared facilities
- Units owned but not subsidized by CMHA (following HUD-prescribed requirements).
- A family can own a rental unit but cannot reside in it while being assisted.

CMHA may not permit a voucher holder to lease a unit, which is receiving project-based HCVF assistance or any duplicative rental subsidies.

### **D. LEASE REVIEW [24 CFR 982.308]**

CMHA will review the dwelling lease for compliance with applicable requirements including the following:

- The names of the owner and occupants and
- The term of the leases (initial and any terms for renewal) and
- The address of the unit rented (including apartment number, if any), and
- The amount of the monthly rent to owner, and
- The utilities and appliances to be supplied by the owner, and
- The utilities and appliances to be supplied by the family
- The HUD Tenancy Addendum

CMHA is permitted, but not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if CMHA determines that the lease does not comply with State or local law [24 CFR 982.308(c)].

CMHA may also review the lease, particularly noting the approvability of optional charges and compliance with regulations. The tenant must have legal capacity to enter a lease under State and local law. Responsibility for utilities, appliances and optional services must correspond to those provided on the RFTA.

The family and owner must submit a standard form of lease used in the locality by the owner and that is generally used for other unassisted tenants in the premises. The terms and conditions of the lease must be consistent with State and local law.

For multi-unit structures (duplex and larger) where the use of the lawn is shared by more than one dwelling unit, the lease shall provide that the landlord is required to maintain those common areas, which includes lawn care. For single-family dwellings, and for multi-unit structures where the HCVP participant has exclusive use of a portion of the lawn, the lease must specify the responsible party for the lawn care. For single-family dwellings and for multi-unit structures, the lease must specify the responsible party for the driveway and sidewalk snow removal.

The HUD prescribed tenancy addendum must be included in the lease word-for-word before the lease is executed.

Effective September 15, 2000, the owner's lease must include the Lead Warning Statement and disclosure information required by 24 CFR 35.92 (b).

The lease must provide that drug-related criminal activity engaged in by the tenant, any household member, or any guest on or near the premises, or any person under the tenant's control on the premises are grounds to terminate tenancy.

The lease must also provide that the owner may evict family when the owner determines that:

- Any household member is illegally using a drug; or
- A pattern of illegal use of drugs by any household member interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The lease must also provide that the following types of criminal activity by a "covered person" are grounds to terminate tenancy:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their premises by persons residing in the immediate vicinity of the premises; or
- Any violent criminal activity on or near the premises by a tenant, household member, or guest; or

- Any violent criminal activity on the premises by any other person under the tenant's control.

The lease shall provide that, during the term of the lease, criminal activity directly relating to domestic violence, dating violence, sexual assault or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights, if the tenant or an immediate member of the tenant's family is a victim of that domestic violence, dating violence, sexual assault or stalking. [42 U.S.C. § 1437f (d)(B)(iii).]

The lease must provide that the owner may terminate tenancy if a tenant is:

- Fleeing to avoid prosecution or custody or confinement after conviction for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees; or
- Violating a condition of probation or parole imposed under Federal or State law.

### **Actions Before Lease Term**

All of the following must always be completed before the beginning of the initial term of the lease for a unit:

- CMHA has inspected the unit and has determined that the unit satisfies the HQS;
- CMHA has determined that the rent charged by the owner is reasonable;
- The landlord and the tenant have executed the lease, including the HUD-prescribed tenancy addendum;
- CMHA has approved leasing of the unit in accordance with program requirements.

At initial occupancy, when the gross rent exceeds the applicable payment standard for the family, CMHA must determine that the family share (total family contribution) will not be more than 40% of the family's monthly adjusted income.

### **SIDE PAYMENTS/ADDITIONAL RENTAL FEES PROHIBITED**

1. **Short Term Lease fees and Month to Month fees.** Short term lease fees and month to month fees charged to tenants if they do not execute a new one year lease after the initial lease term are considered "rent" for purposes of the Housing Choice Voucher Program. This means that landlords are not permitted to charge such fees if they have not been included on a Rent Increase Request and pre-approved by HCVP. Such requests must be made at least 60 days before their proposed effective date and approved before such increases can be imposed. They cannot be approved retroactively nor are they preapproved at the commencement of the initial lease. Any rent increase including contemplation of such fees is subject to the same approval process based on building rent, reasonable rent, and the payment standard. Landlords who charge these fees in addition to the monthly approved rent are in violation of the Housing Assistance Payment Contract and may be deemed ineligible to participate as a landlord with HCVP.

2. **Side Payments.** Families should only pay to the landlord the CMHA approved rental amount. Side payments for additional rent for items normally included in the rent of unassisted families, for items customarily included in rent in the locality, or for items not shown on the approved lease are prohibited. Any attempt to recover side payments for additional rent is illegal and unenforceable.
3. **Separate Agreements.** Owners and families may execute separate agreements for services, furniture, appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by CMHA. Any utility charges, services, furniture, appliances or other items which are routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit, cannot be put under separate agreement and must be included in the rent. If the owner and family have come to a written agreement on the amount of allowable charges for a specific item, they will be allowed as long as those charges are reasonable, legal and not a substitute for higher rent. All such agreements must be attached to the lease approved by CMHA. If agreements are entered into at a later date, they must be pre-approved by CMHA and attached to the lease. CMHA will not approve separate agreements for modifications to the unit for persons with disabilities.

#### **E. INITIAL INSPECTIONS [24 CFR 982.305(a) & (b)]**

See Chapter 10, "Housing Quality Standards and Inspections."

#### **F. RENT LIMITATIONS [24 CFR 982.507]**

CMHA will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market, and the rent charged by the owner for other comparable unassisted units.

By accepting each monthly Housing Assistance Payment from CMHA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner is required to provide CMHA with information requested on rents charged by the owner on the premises or elsewhere.

At all times during the tenancy, the rent to owner may not be more than the most current reasonable rent as determined by CMHA.

#### **G. DISAPPROVAL OF PROPOSED RENT [24 CFR 982.502]**

In any of the programs, if the proposed gross rent is not reasonable, at the family's request, CMHA may help negotiate with the owner to reduce the rent to a reasonable rent. If the rent is

not affordable because the family share would be more than 40% of the family's monthly adjusted income, CMHA (at the family's request) will negotiate with the owner to reduce the rent to an affordable rent for the family, or to include some or all of the utilities in the rent to owner.

If the rent can be approved after negotiations with the owner, CMHA will continue processing the RFTA.

If the owner does not agree on the rent to owner after CMHA has tried and failed to negotiate a revised rent, CMHA will inform the family and owner that the lease is disapproved.

#### **H. INFORMATION TO OWNERS [24 CFR 982.307(b), 982.54(d)(7)]**

In accordance with HUD requirements, if requested, CMHA will furnish prospective owners with the family's current address as shown in CMHA's records and, if known to CMHA, the name and address of the landlord at the family's current and prior address. CMHA will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

CMHA will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, payment of utility bills, eviction history, respecting the rights of other residents, damage to units, drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

A statement of CMHA's policy on release of information to prospective landlords will be included in the briefing packet that is provided to the family.

#### **I. CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE**

When the family reports changes in factors that will affect the total tenant share prior to the effective date of the HAP contract at admission, the information will be verified and the total family share will be recalculated. If the family does not report any change, CMHA need not obtain new verifications before signing the HAP contract, even if verifications are more than 60 days old.

#### **J. CONTRACT EXECUTION PROCESS [24 CFR 982.305(c)]**

CMHA prepares the Housing Assistance Payment (HAP) contract for execution. The family and the owner will execute the lease agreement, and the owner and CMHA will execute the HAP contract. Copies of the documents will be furnished to the parties. CMHA will retain a copy of all signed documents.

CMHA makes every effort to execute the HAP contract before the commencement of the lease

term. The HAP contract may not be executed more than 60 days after commencement of the lease term and no payments will be made until the contract is executed.

The following CMHA representative(s) is/are authorized to execute a contract on behalf of CMHA: Contract Specialists, Eligibility Specialists, Supervisors, Managers, Deputy Director, and Director.

Owners/Agents must provide a valid photo identification at the time of signing.

If requested by CMHA, the owners must also submit certification of ownership of the property; and the name, address, and telephone number of the agent if the property is managed by a management agent.

The owner must provide a home telephone number and business number if applicable. Unless their lease was effective prior to June 17, 1998, a family may not lease properties owned by a parent, spouse, child, grandparent, grandchild, sister or brother of any family member. CMHA may waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

Owners shall provide the current address of their residence. If families lease properties owned by relatives, the owner's current address will be compared to the subsidized unit's address.

## **X. CHAPTER 10-HOUSING QUALITY STANDARDS AND INSPECTIONS**

### **A. INTRODUCTION**

Housing Quality Standards (HQS) are the HUD quality standards in addition to housing code standards set by CMHA. HQS standards are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as the unit. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and HAP contract.

CMHA will inspect each unit under contract at least biennially. This chapter describes CMHA's process for performing HQS and other types of inspections, and CMHA standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of non-compliance with HQS requirements for both families and owners. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and CMHA requirements. See G. Acceptability Criteria and Exceptions to HQS.

### **B. GUIDELINES/TYPES OF INSPECTIONS [24 CFR 982.401(a), 982.405]**

CMHA has adopted additional local housing code requirements of acceptability in addition to those mandated by the HUD regulations.

Efforts will be made at all times to encourage Owners to provide housing above HQS minimum standards. CMHA will not promote any additional acceptability criteria which are likely to adversely affect the health or safety of participant families, or severely restrict housing choice.

All utilities (water, gas and electric) and owner provided appliances (i.e. refrigerator, stove, and oven or range, and garbage cans) must be installed and operational by the inspection date. If the tenant is responsible for supplying the stove and/or the refrigerator, CMHA will allow the stove and refrigerator to be placed in the unit after the unit has passed all other HQS. CMHA will not conduct a re-inspection.

There are four types of inspections CMHA will perform:

- 1) Initial/Move-in: Conducted upon receipt of Request for Tenancy Approval.
- 2) Annual: Must be conducted within twelve months of the last annual inspection. (CMHA will inspect each unit under contract at least biennially.)
- 3) Special: At request of the owner, family, an agency or third party. This would also include emergency inspections.
- 4) Quality Control.

### **C. INITIAL HQS INSPECTION [24 CFR 982.401(a), 982.305(b)(2)]**

#### **Timely Initial HQS Inspection**



CMHA must inspect the unit, determine whether the unit satisfies the HQS, and notify the family/owner of the determination within a reasonable time after the family submits a Request for Tenancy Approval. Such inspection and determination must be completed within 15 days after the family and owner submit a Request for Tenancy Approval and the unit is ready for inspection. The unit must be vacant or occupied by the family to be inspected.

The Initial Inspection will be conducted to:

- Determine if the unit and property meet the HQS defined in this Plan.
- Document the information to be used for determination of rent reasonableness.

If the unit fails the initial Housing Quality Standards inspection, the unit will be rescheduled for a second inspection within 7-10 days.

On an initial inspection, the owner will be given up to 30 days to correct the failed items.

When a unit fails an initial or moving inspection the second time, the HCVP participant is provided with written notice to find another unit.

#### **D. ANNUAL/BIENNIAL HQS INSPECTIONS [24 CFR 982.405(a)]**

CMHA conducts an inspection in accordance with Housing Quality Standards at least biennially as required by regulations. In general this occurs 60 to 120 days prior to the anniversary date of the last annual/biennial inspection. Special inspections may be scheduled between anniversary dates.

The landlord must correct HQS deficiencies that cause a unit to fail unless it is a fail for which the tenant is responsible.

The family must allow CMHA to inspect the unit at reasonable times with reasonable notice. [24 CFR 982.551(d)]

**Inspection:** For annual/biennial inspections, CMHA will notify the family and owner by mail. Portal users will also receive electronic notification. If the family and/or owner are not present, the inspection will be counted as a failed inspection. The appointment will be automatically rescheduled within 2 to 7 days to take place within 29 days.

**Re-inspection:** The family and owner are provided a notice of the re-inspection appointment by mail and/or portal. If an adult 18 and older is not at home for the re-inspection appointment, the unit will be abated and the family will be proposed for termination.

The owner and family are notified that it is both an owner and family obligation to allow CMHA to inspect the unit. If the family was responsible for a breach of HQS, they will be advised in writing of their responsibility to correct.

#### **Time Standards for Repairs**

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The owner must correct emergency items which endanger the family's health or safety within 24 hours of notification. (See Emergency Repair Items section.) The inspections must be performed on two consecutive days excluding weekends and holidays.

For non-emergency items, repairs must be made within a timeframe set by the HCVP Inspection Department, but no later than 30 days.

For major repairs, such as roof replacement, furnace replacement, window replacement, exterior painting or other capital improvement, the Manager or designee may approve an extension beyond 30 days. Other requests for extensions outside of these items noted will be considered on a case-by-case basis.

#### **E. SPECIAL INSPECTIONS [24 CFR 982.405(c)]**

If at any time the family or owner notifies CMHA that the unit does not meet Housing Quality Standards, CMHA may conduct an inspection.

CMHA may also conduct a special inspection based on information from third parties such as neighbors or public officials.

CMHA will inspect only the items which were reported, but if the inspector notices additional deficiencies that cause the unit to fail HQS these will become annotated as fail items, and the responsible party will be required to make the necessary repairs.

If the annual/biennial inspection date is within 120 days of a special inspection, and as long as all items are inspected that are included in an annual/biennial inspection, the special inspection will be categorized as annual/biennial and all annual/biennial procedures will be followed.

#### **F. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b)]**

CMHA will inspect each unit under contract at least biennially. CMHA will also have a HQS Manager or designee perform quality control inspections on the number of units required by SEMAP annually to maintain CMHA's required standards and to assure consistency in CMHA's program.

The sampling of files will include recently completed inspections (within the prior 3 months), a cross-section of neighborhoods, and a cross-section of inspectors and a cross-section of inspection types.

#### **G. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS [24 CFR 982.401 (a)]**

CMHA adheres to the acceptability criteria in the program regulations. In addition, when CMHA receives notice from a municipality that a unit is in serious violation of a housing code, CMHA will accept the violation and will schedule a re-inspection within 30 days. If documented

deficiencies are not corrected within 30 days, the unit will be abated.

### **Acceptability Criteria**

CMHA applies HUD acceptability criteria with the additions described below:

1) Sanitary/Lavatory facilities:

- a. Must be in a separate private room.
- b. Must have a toilet and a fixed wash basin, both in working condition. Must have a shower or tub and cold and hot running water.
- c. Must utilize a public or private disposal system.
- d. Must have a means of ventilation.

**Requirement:** must be located such that access does not have to be solely through a bedroom.

2) Food Preparation and Refuse Disposal:

- a. The dwelling unit must have suitable space and equipment to store prepare, and serve foods in a sanitary manner.
- b. There must be facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage (e.g. garbage cans).

3) Space and Security:

- a. Dwelling unit must have a living room, kitchen, and a bathroom. The dwelling unit must have one bedroom or living/sleeping room for each two persons.
- b. Windows accessible from the outside must be appropriately secured.
- c. Exterior doors must be lockable.

**Requirement:** external door locks must be turn style deadbolt locks

4) Thermal Environment:

- a. Must have a safe system for heating the dwelling unit, or cooling unit if applicable.
- b. The dwelling must not contain unventilated room heaters that burn gasoline, kerosene or oil.

**Requirement:** Must conform to state minimum temperature standards for families and elderly and local code requirements.

5) Illumination and Electricity:

- a. At least one window must be present in the living room and each bedroom.
- b. The kitchen and bathroom must have a permanent light fixture in good working order.
- c. The kitchen must also have at least one working electrical outlet.
- d. The living room and bedrooms must each have at least two working electrical outlets. A permanent light fixture may be substituted for one the electrical outlets.

6) Interior Air Quality:

- a. Air must be free of dangerous level of carbon monoxide, fuel gas, sewer gas, etc.
- b. The dwelling unit must have adequate air circulation. Bathrooms must have an openable window or working exhaust fan.
- c. Bedrooms must have at least one window.

7) Water Supply:

- a. The dwelling must be served by an approvable private or public water supply that is sanitary and free of contamination.
- 8) Lead Paint:
  - a. Refer to 24 CFR 982.401(j), implementation of section 302 of the Lead-Based Paint Poisoning Prevention Act. The unit must comply with all current HUD regulations including PIH Notice dated February 22, 2008, "PIH Guidance on the Lead-Safe Housing Rule for Field Office Staff". Owners are responsible for providing their own lead testing and lead abatement where required by HUD. In cases where abatement of lead hazard is required, the owner must provide CMHA with a copy of the passed lead clearance test and proof that the work was done by an EPA certified lead abatement contractor before the unit will be considered to have passed HQS by CMHA.
- 9) Access performance requirement:
  - a. The dwelling must be able to be used and maintained without unauthorized use of other private property.
  - b. The building must have more than one entrance as an alternate means of exit in case of fire.
- 10) Site and neighborhood requirements:
  - a. The site and neighborhood must be reasonably free from disturbing noise, reverberations, and serious adverse conditions, natural or manmade that would threaten the health safety, or general welfare of the occupants.
- 11) Sanitary conditions:
  - a. The dwelling unit and its equipment must be free of vermin or infestation.
- 12) Smoke detector
  - a. Each dwelling must have an operational battery-powered or hard-wired smoke detector on each level of the dwelling unit.

### **Exceptions to HQS**

In addition to HUD acceptability requirements, CMHA has adopted the following standards:

- 1) Units with windows that are designed to be open must be operable. All exterior windows must have screens and storms, unless the unit is located in a building that has a total HVAC system and does not require windows that can be opened for fresh air.
- 2) Owners will be required to remove and/or repair or cover defective paint surfaces regardless of age of occupants. Owners of units with children under age 6 residing in or expected to reside in the unit must abate the lead hazard and provide a lead clearance test from an accredited source, acceptable to CMHA. Owners of units without children under age six residing in or expected to reside in the unit do not have to provide a lead clearance test, but must abate the lead hazard.

Lead hazards must be abated when the total painted surfaces are more than:

- 20 square feet on any exterior surface;
- 2 square feet in any one interior room or space; or
- 10% of total surface area on an interior or exterior type of component with a small

- surface area. Examples include window sills, baseboards and trims.
- 3) If a clothes dryer is present in a dwelling unit, the dryer must be vented to the outside of the unit.
  - 4) Dwelling units must have intact gutters and downspouts if originally present.
  - 5) The dwelling unit must have storm doors on exterior entrance doors to the unit. Exceptions may be made for multi-family units, historical preservation, and reasonable accommodation.

### **Modifications**

Modifications or adaptations to a unit due to a disability must meet all applicable HQS requirements.

## **H. VERIFICATION OF COMPLETED VIOLATIONS**

- 1) **HQS Inspector Certification**-The verification of completed violations cited in the HQS inspection will be primarily achieved through a physical inspection conducted by the inspector. The inspector must see the completed work in order to pass the inspection. The inspector must consider work-in-progress and or verbal commitments to complete the work in the future as a failed inspection.
- 2) **Owner Certification**-The verification of completed violations cited in the HQS inspection may be certified as completed by the owner under some circumstances. The owner's certification must include a paid invoice itemizing the work and the date the work was completed, and/or a picture with time and date stamp of the completed cited item(s), and/or a notarized document stating the date the cited item(s) were completed. The decision to allow for an owner's certification and which documents will be required and acceptable is at the discretion of the inspection Manager or designee. The owner's certification will be used to support the date of completion of the violation and will normally be accompanied by a physical inspection by an inspector.
- 3) **Tenant Certification**-The verification of completed violations cited in the HQS inspection may be certified as completed by the tenant under some circumstances. The tenant's certification must include a paid invoice itemizing the work and the date the work was completed, and or a picture with time and date stamp of the completed cited item(s), and/or a notarized document stating the date the cited item(s) were completed. Emergency inspections allow for a verbal response via the telephone, from the tenant, acknowledging the existence or completion of the cited item(s). The decision to allow for a tenant's certification and which documents will be required and acceptable is at the discretion of the inspection Manager or designee. The tenant's certification will be used to support the date of completion of the violation and will normally be accompanied by a physical inspection by an inspector.

## **I. EMERGENCY REPAIR ITEMS [24 CFR 982.404(a)]**

An emergency is defined as a violation which threatens life, health or safety.

If the emergency repair item(s) are not corrected in the time period required by CMHA (within 24 hours), and the owner is responsible, the Housing Assistance Payment will be abated and the HAP contract will be subsequently terminated if the unit remains in disrepair.

If the emergency repair item(s) are not corrected in the time period required by CMHA (within 24 hours), and it is an HQS breach which is a family obligation, CMHA will move swiftly to terminate the assistance to the family.

## **J. CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS) [2CFR 982.405, 982.453]**

When it has been determined that a unit on the program fails to meet Housing Quality Standards, and the owner is responsible for completing the necessary repair(s) in the time period specified by CMHA, and the owner failed to repair after timely notice, the assistance payment to the owner will be abated. The abatement will proceed if CMHA cannot gain access to the unit.

### **Abatement**

A Notice of Abatement will be sent to the owner, and the abatement will be effective the first day of the following month until the day the unit passes HQS. If the unit passes re-inspection before the first of the month at which time abatement would begin, CMHA may reinstate HAP payments on the day the owner complies and rescind the abatement or cancellation of HAP contract. CMHA will inspect abated units within 30 days of the previous inspection. A re-inspection date is provided on the abatement letter, however, CMHA may re-inspect earlier upon owner request.

If the owner makes repairs during the abatement period the unit will again qualify for HAP on the day the unit passes inspection.

No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS.

During abatement the HAP Contract is still in effect. This means that only the HAP is abated. The family is not responsible for reimbursing the owner for any HAP that is not distributed by CMHA.

### **Cancellation of Contract**

If the owner is responsible for repairs, and fails to correct all deficiencies cited by the third inspection, the contract will be cancelled at the end of the month in which the third failure occurred. Participants whose contracts have been cancelled for reasons beyond the control of the family will be issued a 120 day voucher. The family will be withdrawn and any open voucher will be expired if the family remains out of contract for more than 180 days and will not be entitled to an informal hearing.

If repairs are completed before the effective cancelation date, the cancelation may be rescinded

by CMHA if the tenant chooses to remain in the unit.

**K. DETERMINATION OF RESPONSIBILITY [24 CFR 982.404, 982.54(d)(14)]**

Certain HQS deficiencies are considered the responsibility of the family:

- Tenant-paid utilities not in service
- Access to the unit (this is a family obligation)
- Failure to provide or maintain family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear
- Failure to contain pets during in-home appointments. If not contained, the appointment may be cancelled. Two cancellations could result in termination of assistance.

The owner is responsible for all other HQS violations. To avoid abatements resulting from CMHA being unable to access the unit to confirm that repairs were made, the owner may wish to be present for re-inspections.

The owner is responsible for vermin infestation unless the tenant intentionally or negligently caused it. In such cases, and if such infestation is serious and repeated, it may be considered a lease violation and the owner may be permitted to evict for serious or repeated violation of the lease. CMHA may terminate the family's assistance on that basis.

**L. CONSEQUENCES IF FAMILY IS RESPONSIBLE [24 CFR 982.404(b)]**

If emergency or non-emergency violations of HQS are determined to be the responsibility of the family, CMHA will require the family to make any repair(s) or correction(s) within 24 hours or 30 days.

If the repair(s) or correction(s) are not made in this time period, respectively, CMHA may terminate assistance to the family, after providing an opportunity for an informal hearing. Extensions in these cases may be approved by the Manager or designee. The owner's rent will not be abated for items which are the family's responsibility.

If the tenant is responsible and corrections are not made, the HAP contract will cancel when assistance is terminated.

## **XI. CHAPTER 11-PAYMENT STANDARDS, RENT REASONABLENESS, AND OWNER RENTS**

### **A. INTRODUCTION**

CMHA will determine rent reasonableness in accordance with 24 CFR 982.507(a). It is CMHA's responsibility to ensure that the rents charged by owners are reasonable based upon unassisted comparables in the rental market, using the criteria specified in 24 CFR 982.507(b) and Notice PIH 2003-12.

This chapter explains CMHA's procedures for determination of payment standards, rent reasonableness and rent to owner.

### **B. PAYMENT STANDARDS (24 CFR 982.503]**

The Payment Standard is used to calculate the Housing Assistance Payment for a family. In accordance with HUD regulations, and at CMHA's discretion, the voucher payment standard amount is set by CMHA between 90 and 110% of the HUD published Fair Market Rent (FMR). In order to maximize the number of existing households on the program, CMHA's payment standard is currently set at 90 – 110% of the FMRCMHA reviews the appropriateness of the payment standard annually when the new FMRs are published to ensure that dollar amounts remain within the acceptable range of 90 – 110% of the newly published FMR, and/ or when budgetary constraints warrant.

On a case-by-case basis, CMHA may approve a payment standard of up to 120% of FMR if required as a reasonable accommodation for a family that includes a person with disabilities. CMHA must perform a rent reasonableness analysis and maintain documentation that the unit has features required to meet the needs of the person with disabilities. The following criteria will be used:

- 1) Unit adaptations necessitated by the disability; or
- 2) The unit's proximity to caregivers or service providers.

#### **Changes in Payment Standards**

Whenever HUD adjusts the FMR, CMHA will assess the adequacy of its payment standard. The effective date will generally be 120 days after publication of the FMRs due to re-exams in process.

CMHA may review its budget to determine whether it is feasible to maintain the Payment Standard at its current levels. For this purpose, CMHA will compare the number of families that could be served under a lower Payment Standard with the number of families served at the 100% level. When the FMR decreases, CMHA may choose to continue to use the existing payment standard for as long as the family continues to receive voucher assistance in a particular unit.



## **C. RENT REASONABLENESS [24 CFR 982.507]**

CMHA will determine and document on a case-by-case basis that the approved rent is reasonable in comparison to rent for other comparable unassisted units in the market.

CMHA will not approve a lease until CMHA determines that the initial rent to owner is a reasonable rent.

CMHA must redetermine the reasonable rent for any of the following reasons:

- Before an increase in rent to owner;
- If there is a five (5) percent decrease in the published Fair Market Rent (FMR) in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the contract anniversary;
- If directed by HUD and based on a need identified by CMHA's auditing system;
- CMHA may also redetermine the reasonable rent at any other time.

At all times during the assisted tenancy, the rent to the owner may not exceed the reasonable rents as most recently determined or redetermined by CMHA.

CMHA may use an independent third party source to collect and maintain data on market rents in CMHA's jurisdiction.

In providing data to CMHA, the independent third party source must operate in compliance with the request for proposal (RFP) and contract.

### **Rent Reasonableness Methodology**

The rent for a unit proposed for HCVP assistance will be compared to the rent charged for unassisted comparable units in the same market area. Typically units may be similar, but not exactly like the unit proposed for HCVP assistance. Therefore, CMHA may make upward and downward dollars adjustments for differences between the HCVP unit and the comparables to determine the reasonable rent for the HCVP unit.

The adjustment must reflect the local market. Not all differences in the units require adjustments.

### **Dwelling units in multi-family buildings (must have four or more suites)**

In determining the reasonableness of rents for unassisted units located in a multifamily project, the rents charged for at least three comparable units by bedroom size, located at the property and not assisted under a federal, state, or local program, shall constitute comparable rents.

Building rent is applicable to all structures that have four or more units of comparable size. Once approved, the building rent will remain in effect for one year. Rents may be renewed annually.

All participants who desire to move into a structure that has building rent will pay no more than the established rent.

Rents requested by owners of multi-family units will be reviewed for rent reasonableness. If the rent comparison meets the owner's requested rent, this rent will be established rent for all like units at the property.

#### **D. RENT TO OWNER**

The rent to owner is limited by rent reasonableness. CMHA must demonstrate that the rent to owner is reasonable in comparison to rent for other comparable unassisted units.

The only other limitation on rent to owner is the maximum rent burden permissible at initial occupancy (24 CFR 982.508). At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, whether it is a new admission or a move to a different unit, if the gross rent for the unit exceeds the applicable payment standard for the family, the family share may not exceed 40 percent of the family's monthly adjusted income. During the initial term of the lease, the owner may not increase the rent.

##### **1. Making Payments to Owners [24 CFR 982.451]**

Once the HAP contract is executed, CMHA begins processing payments to the landlord. A HAP Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made to the HAP Register for the following month. Payments are disbursed to the owner each month. Lost or stolen payments will be replaced upon receipt of an executed affidavit from the payee.

##### **2. Excess Payments**

The contract rent is the established rent. The owner must immediately return any excess subsidy payment to CMHA and any excess participant portion to the tenant.

Owners who do not return excess payments will be subject to penalties as outlined in "Owner or Family Debts to CMHA" Chapter 18 of this Administrative Plan.

##### **3. Late Payment Penalty**

CMHA must make Housing Assistance Payments to the owner promptly and in accordance with the HAP contract. If Housing Assistance Payments are not paid promptly when due after the first two calendar months of the HAP contract term, CMHA shall pay the owner penalties in accordance with generally accepted practices and law, as applicable in the local housing market, governing penalties for late payment by a tenant. However, CMHA shall not be obligated to pay any late payment penalty if HUD determines that the late payment by CMHA is due to factors beyond CMHA's control. Moreover, CMHA shall not be obligated to pay any late payment penalty if Housing Assistance Payments by CMHA are delayed or denied as a remedy for owner

breach of the HAP contract (including any of the following CMHA remedies: recovery of overpayments, suspension of Housing Assistance Payments, abatement or reduction of Housing Assistance Payments, termination of Housing Assistance Payments and termination of the contract)

#### **4. Annual Adjustment of Rent to Owner [24 CFR.**

Contract Rent for the first year remains unchanged. A request for an adjustment in Contract Rent can be made after the first anniversary date if:

- a) The owner requests the increase by giving written notice to CMHA and
- b) The owner has complied with all requirements of the HAP contract, including compliance with the HQS.

Rent to owner will only be increased for Housing Assistance Payments covering months commencing on the later of:

- a) The first day of the first month commencing on or after the contract anniversary date or
- b) At least sixty days after CMHA receives the owner's request.

The rent to owner may be adjusted up or down. Any increase in owner rent will be the lesser of the amount of increase requested by the owner, or an amount that does not exceed reasonable rent (as most recently determined or redetermined by CMHA in accordance with 24 CFR 982.503).

## **XII. CHAPTER 12-RECERTIFICATIONS**

### **A. INTRODUCTION**

In accordance with HUD requirements, CMHA will reexamine the income and household composition of all families at least annually. Families will be provided accurate annual and interim rent adjustments. Recertifications and interim examinations will be processed in a manner that ensures families are given 30 days notice of rent increases. All annual activities will be coordinated in accordance with HUD regulations. It is a HUD requirement that families report all changes in household composition. CMHA requires that changes must be reported in writing, within 30 days of the change. This Chapter defines CMHA's policy for conducting annual recertifications and coordinating annual activities. It also explains the interim reporting requirements for families, and the standards for timely reporting.

### **B. ANNUAL ACTIVITIES [24 CFR 982.516, 982.405]**

There are four activities CMHA must conduct on an annual basis.

- 1) Recertification of income and family composition.
- 2) HQS inspection. (See Chapter 10, Housing Quality Standards and Inspections. Must be completed at least biennially.)
- 3) Rent increases, if requested by the Owner.
- 4) Determine continuing income eligibility of a student under the age of 24 who is not a veteran, is unmarried, does not have a dependent child and who is receiving Section 8 assistance, in accordance with the Eligibility of Students for Assisted Housing, Section 8 of the U. S. Housing Act of 1937.

CMHA produces a monthly listing of units under contract to ensure that timely reviews of rent to owner, housing quality, and factors related to total tenant payment/family share can be made.

### **C. ANNUAL RECERTIFICATION/REEXAMINATION [24 CFR 982.516]**

Families are required to be recertified at least annually. However, for disabled and elderly families whose household income includes a fixed income source, CMHA will conduct a streamlined re-examination of income. In a streamlined re-examination, CMHA will recalculate family fixed income by applying any published cost-of-living adjustments to the previously verified income amount. This income will be verified every 3 years. All other income will be verified annually. The term 'fixed income' includes income from:

1. Social Security payments to include Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI);
2. Federal, State, local and private pension plans; and

3. Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic receipts that are of substantially the same amounts from year to year.

Families will be notified of the results of the re-examination at least 30 days prior to any change.

### **Moves Between Reexaminations**

Families are not recertified when they move unless it is time for their annual recertification or the family requests an interim. If an interim is conducted, the anniversary date will not be changed. Income limits are not used as a test for continued eligibility at recertification.

### **Criminal Background Checks**

At the time of annual re-exam, CMHA will conduct a criminal background check of adults on a percentage (as determined by management) of households not moving.

### **Reexamination Notice to the Family**

CMHA will maintain a reexamination tracking system and the household will be notified by mail or available electronic methods, of the date and time for their interview at least 60 days in advance of the anniversary date. If requested as an accommodation by a person with a disability, CMHA will provide the notice in an accessible format. CMHA will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. Accommodations will be granted upon request by a family if an accommodation is needed. Verification may be required.

### **Procedure**

CMHA's procedure for conducting annual recertifications will be to schedule the date and time of appointment and mail a notification to the family. CMHA may also elect to have the family complete a mail-in recertification.

### **Completion of Annual Recertification**

CMHA will have all recertifications for families completed before the anniversary date. This includes notifying the family of any changes in rent at least 30 days before the scheduled date of the change in family rent.

### **Persons with Disabilities**

Persons with disabilities who are unable to come to CMHA's office will be granted an accommodation by conducting the interview at the person's home or by mail, upon request by a family that the accommodation is needed. Verification and/or approval by the RA Committee may be required.

### **Collection of Information**

CMHA has established appropriate recertification procedures necessary to ensure that the income data provided by families is complete and accurate.

CMHA will require the family to complete an updated Participant Recertification Assessment Form prior to all recertification interviews.

### **Requirements to Attend**

All adult household members are required to attend the recertification interview. Minors who will turn 18 years old on or before the family's next recertification effective date are required to attend the interview for that recertification. All approved live-in-aides must be present at the recertification interview, provide current identification, and provide proof of residency at the subsidized unit.

### **Failure to Respond to Notification to Recertify**

CMHA must send written notification of the recertification appointment or mail-in due date. If the participant is unable to keep the first scheduled appointment or mail-in date a final appointment will be scheduled and written notification will be mailed. If the participant fails to comply with either the first appointment or final appointment date (or mail in due date), the family may be proposed for termination and informed of their right to an informal hearing. Exceptions to these policies may be made at the supervisory level if the family is able to document an emergency situation that prevented them from completing the recertification or if requested as a reasonable accommodation for a person with a disability. Families will be notified in the letter that they will be permitted to reschedule for a documented emergency if they call before the missed appointment.

### **Documents Required From the Family**

In the notification letter to the family, CMHA will include instructions for the family to bring or send all required documentation needed to complete the annual recertification, including documentation of income, documentation of total net family assets, documentation of any deductions/allowances, and the Participant Recertification Assessment Form completed by the head-of-household. The documentation noted above and any other documentation requested by CMHA must be returned within 14 days unless an extension of time is approved at the supervisor level or above. Failure to provide requested documentation within the time frame established by CMHA may result in the family's proposal for termination from the Program.

### **Verification of Information**

CMHA will follow the verification procedures and guidelines described in this Plan. Verifications for reexaminations must be less than 120 days old.

### **Participant Rent Changes**

If participant rent changes, a notice is mailed to the family at least 30 days prior to the scheduled effective date of the change.

If less than thirty days are remaining before the scheduled effective date of the annual recertification, if the TTP increases, the tenant rent increase will be effective on the first of the month following the 30-day notice.

If there has been a misrepresentation or a material omission by the family, or if the family causes

a delay in the reexamination processing, the rent will be effective on the scheduled annual recertification date.

#### **D. REPORTING INTERIM CHANGES [24 CFR 982.516]**

Program participants must report all changes in family composition and increases in income to CMHA, in writing within 30 days, between annual reexaminations. The family must obtain approval to add any additional family members before the new member occupies the unit except for additions by birth, adoption or court-awarded custody, in which case the family must inform CMHA in writing within 30 days. On a case-by-case basis, a minor child may be added to the family composition if the minor child resides with an adult member of the household pursuant to the written permission of the minor child's parent or legal custodian. The family must obtain written owner approval prior to all additions to the household except by birth, adoption or court awarded custody.

If any new family member is added, family income must include any income of the new family member. CMHA will conduct a reexamination to determine such additional income and will make the appropriate adjustments in the Housing Assistance Payment. Family unit size is adjusted, if applicable, at the first regular re-exam or other change of unit, whichever occurs first. The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular recertification after moving into the unit.

##### **Interim Income Changes**

Families must report, in writing, all changes in household composition and increases in income within thirty (30) days of the change. CMHA will review the information to determine if any adjustments will be effectuated.

If the review indicates there is an increase of income of \$100.00 a month or more, then an interim will be processed to reflect the change. If the change is not reported within the required time period, or if the family fails to provide documentation or signatures, it will be considered untimely reporting.

##### **Decreases in Income**

Participants may report a decrease in income and other changes that would reduce the amount of rent the participant is required to pay. Because these changes are reported by the family in anticipation of a rent decrease, to be considered timely, they must be reported, in writing, within 30 days, just as an increase in allowances or deductions. Income decrease changes will be effective the first of the next month after the change is reported.

##### **CMHA Errors**

If CMHA makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted, if necessary, to correct the error, but the family will not be charged retroactively. Families will be granted decreases, when applicable, retroactive to the proper effective date.

## **E. OTHER INTERIM REPORTING ISSUES**

An interim reexamination does not affect the date of the annual recertification. CMHA may conduct the interim recertification by mail as a reasonable accommodation or when requested for other good cause as determined by CMHA. The interim reporting provisions outlined in this chapter apply to Moderate Rehabilitation families as well as families participating in the Housing Choice Voucher Program.

## **F. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS**

All reductions in welfare assistance do not result necessarily in a reduction in the tenant portion of rent.

CMHA will not reduce the family share of rent for families whose welfare assistance is reduced due to a “specified welfare benefit reduction,” which is a reduction in benefits by the welfare agency specifically because of:

- Fraud in connection with the welfare program; or
- Noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

However, CMHA will reduce the rent if the welfare assistance reduction is a result of:

- The expiration of a lifetime time limit on receiving benefits; or
- A situation where the family has complied with welfare program requirements but cannot or has not obtained employment, or
- A family member has not complied with other welfare agency requirements.

### **Definition of “Imputed Welfare Income”:**

The amount of annual income, not actually received by a family, as a result of a specified welfare benefit reduction, that is included in the family’s income for purposes of determining rent.

The amount of imputed welfare income is determined by CMHA, based on written information supplied to CMHA by the welfare agency, including:

- The amount of the benefit reduction
- The term of the benefit reduction
- The reason for the benefit reduction
- Subsequent changes in the term or amount of the benefit reduction

The family’s annual income will include the imputed welfare income, as determined at the family’s annual or interim reexamination, during the term of the welfare benefits reduction (as specified by the welfare agency).

The amount of imputed welfare income will be offset by the amount of additional income the



family receives that commences after the sanction was imposed. When additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income will be reduced to zero.

If the family was not an assisted resident when the welfare sanction began, imputed welfare income will not be included in annual income.

If the family claims the amount of imputed welfare income has been calculated incorrectly, CMHA will review the calculation for accuracy. If the imputed welfare income amount is correct, CMHA will provide a written notice to the family that includes:

- A brief explanation of how the amount of imputed welfare income was determined;
- A statement that the family may request an informal hearing if they do not agree with CMHA's determination.

(See "Verification Procedures" - Chapter 7.)

### **Definition of Covered Family**

A household that receives benefits for welfare or public assistance from a State or public agency program which requires, as a condition of eligibility to receive assistance, the participation of a family member in an economic self-sufficiency program.

## **G. NOTIFICATION OF RESULTS OF RECERTIFICATIONS [HUD Notice PIH 97-60]**

The HUD Form 50058 will be completed and transmitted as required by HUD. The Notice of Change to Lease and Contract is mailed to the owner and the tenant. CMHA must provide participants with the opportunity for an informal hearing for decisions related to the determination of the family's annual or adjusted income and the computation of the Housing Assistance Payment. CMHA will require a family to request a rent review if there is a disagreement with the rent adjustment. If the family disagrees with the rent review determination, they may request an informal hearing.

## **H. TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS) [24 CFR 982.516(c)]**

### **Standard for Timely Reporting of Changes**

CMHA requires that families report changes to CMHA, in writing, within 30 days of when the change occurs. (See "Interim Reexamination Policy.") In such cases, the family will be issued an interim re-examination packet. Zero income families who become employed or gain any type of income must report the income, in writing, within 30 days from the date of notification of the income received or date of hire, whichever comes first.

If the change is not reported in writing within the required time period, or if the family fails to provide documentation or signatures, it will be considered untimely reporting.

### **Procedures When the Change is Reported in a Timely Manner**

CMHA will notify the family and the owner of any change in the Housing Assistance Payment to be effective according to the following guidelines:

- Increases in the Tenant Rent are effective on the first of the month following a thirty-day notice.
- Decreases in the Tenant Rent are effective the first of the month following the month in which the change occurred.
- Effective dates may need to be implemented retroactively because of the verification process described herein.

### **Procedures when the Change is Not Reported by the Family in a Timely Manner**

If the family does not report the change in writing as described under Timely Reporting, the family will have caused an unreasonable delay in the interim reexamination processing and the following guidelines will apply:

- Increase in Tenant Rent will be effective retroactive to the date it would have been effective had it been reported on a timely basis. The family will be liable for any overpaid housing assistance and may be required to sign a Payment Agreement or make a lump sum payment.
- Decreases in Tenant Rent will be effective on the first of the month following the month in which the family reported the change.

### **Procedure when the Change is Not Processed by CMHA in a Timely Manner**

CMHA will not delay the processing more than is required by the verification process described in Chapter 7.

However, in this case, an increase will be effective after the required thirty-day notice prior to the first of the month after completion of processing by CMHA.

If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be reimbursed for the amount.

## **I. CHANGES IN VOUCHER SIZE AS A RESULT OF FAMILY COMPOSITION CHANGES [24 CFR 982.516(c)]**

See Chapter 5, "Subsidy Standards."

## **J. CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.518]**

Under the Noncitizens Rule, "mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

The Noncitizens Rule was implemented prior to November 29, 1996, and "mixed" families who

were participants as of June 19, 1995, shall continue receiving full assistance if they meet all of the following criteria:

The head of household or spouse is a U.S. citizen or has eligible immigrant status; AND  
All members of the family other than the head, the spouse, parents of the head or the spouse, and children of the head or spouse are citizens or eligible immigrants. The family may change the head of household to qualify under this provision.

#### **K. MISREPRESENTATION OF FAMILY CIRCUMSTANCES**

If any participant deliberately misrepresents the information on which eligibility or tenant rent is established, CMHA may terminate assistance and may refer the family file/record to the proper authorities for appropriate disposition.

### **XIII. CHAPTER 13-MOVES WITH CONTINUED ASSISTANCE/PORTABILITY**

#### **A. INTRODUCTION**

HUD regulations permit families to move with continued assistance to another unit within CMHA's jurisdiction, or to a unit outside of CMHA's jurisdiction under portability procedures. The regulations also allow CMHA the discretion to develop policies which define any limitations or restrictions on moves. This chapter defines the procedures for moves, both within and outside of, CMHA's jurisdiction, and the policies for restriction and limitations on moves.

#### **B. ALLOWABLE MOVES**

A family may move to a new unit with continued assistance if:

- The assisted lease for the old unit has terminated because CMHA has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family.
- The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated for a program violation).
- The family has given proper notice of lease termination (and if the family has a right to terminate the lease on notice to owner).
- The current annual reexamination has been completed.

#### **C. RESTRICTIONS ON MOVES [24 CFR 982.314, 982.552(a)]**

Families will not be permitted to move more than once in a 12-month period or in violation of a lease provision. Mutual rescissions of lease within a 12-month period are only accepted when the family has been approved for a reasonable accommodation by the Reasonable Accommodation Committee or at CMHA's discretionary approval.

CMHA will allow family to move more than once in a 12 month period where a member of the family is a victim of domestic violence, dating violence, sexual assault or stalking and the continued occupancy of the current unit subjects them to immediate danger based on threat of harm.

CMHA will deny permission to move if there is insufficient funding for continued assistance.

The Supervisor or Manager may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control, which includes, for example, a termination of the HAP contract due to the owner's violation of the HAP contract.

#### **D. PROCEDURE FOR MOVES [24 CFR 982.314]**

##### **Issuance of Voucher**

Subject to the restrictions on moves, if the family has been recertified within the last 12 months, CMHA will issue the voucher to move.

If the family does not locate a new unit, they may remain in the current unit so long as the owner permits.

### **Issuance of Additional Vouchers**

Families who wish to move may be issued one moving voucher per year, if eligible to move. Additional moving vouchers may be issued within the same year, at the discretion of management. Reasons for issuing additional moving vouchers within a 12 month period include, but are not limited to, family hardship, when the family is a hard-to-house family, death in the family or medical issues that prevent the family from searching for housing.

### **Notice Requirements**

The family must give the owner the required number of days written notice of intent to vacate specified in the lease and must give a copy to CMHA simultaneously.

### **Time of Contract Change**

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move except that there will be no overlapping assistance.

## **E. PORTABILITY [24 CFR 982.353]**

Portability applies to tenant based families moving out of or into CMHA's jurisdiction within the United States and its territories.

A family may not receive a voucher from a Public Housing Agency and move to another jurisdiction under the program if the family has moved out of the assisted dwelling unit in violation of a lease.

## **F. OUTGOING PORTABILITY [24 CFR 982.353, 982.355]**

Within the limitations of the regulations and this policy, a participant family has the right to receive tenant-based voucher assistance to lease a unit outside CMHA's jurisdiction, anywhere in the United States, in the jurisdiction of a PHA with a tenant-based program. When a family requests to move outside of CMHA's jurisdiction, the request must specify the area to which the family wants to move.

If there is more than one PHA in the area in which the family has selected a unit, CMHA will provide the family with the contact information for the receiving PHAs and the family chooses the receiving PHA. The family may request CMHA to choose the receiving PHA if that is the family's preference.

## **Restrictions on Portability**

### **Applicants**

If neither the head nor spouse had a domicile (legal residence) in CMHA's jurisdiction at the date of their initial application for assistance, the family will not be permitted to exercise portability upon initial issuance of a voucher, unless CMHA approves such a move.

For a portable family that was not already receiving assistance in CMHA's based program, CMHA must determine whether the family is eligible for admission under the receiving PHA's program.

### **Participants**

CMHA will not permit families to exercise portability:

- If the family is in violation of a family obligation.
- If the family owes money to CMHA.
- If the family has moved out of its assisted unit in violation of the lease.

Receiving PHAs will be required to submit hearing determinations to CMHA within 30 days.

### **Special Circumstances**

A family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the Housing Choice Voucher Program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, sexual assault or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

## **G. INCOMING PORTABILITY [24 CFR 982.354, 982.355]**

### **Absorption or Administration**

If CMHA does not absorb the incoming family, it will administer the voucher and bill the initial PHA accordingly.

When CMHA absorbs the incoming family, it will notify the initial PHA that it can reissue its voucher to a new family. The family becomes a CMHA participant.

### **Income and Total Tenant Payment of Incoming Portables [982.353(d)]**

If the family's income is such that a \$0 subsidy amount is determined prior to lease-up in the receiving PHA's jurisdiction, the PHA will refuse to enter into a contract on behalf of the family at \$0 assistance.

### **Requests for Approval of Tenancy**

When the family submits a Request for Tenancy Approval, it will be processed using CMHA's policies. If the family does not submit a Request for Approval of Tenancy or does not execute a lease, CMHA will notify the initial PHA within 30 days of voucher issuance.

If the family leases up successfully, CMHA will notify the initial PHA within 30 days, and the billing process will commence within 10 working days of execution of the HAP contract and no later than 60 days following the expiration date of the family voucher issued by the initial PHA.

CMHA will notify the initial PHA if the family fails to submit a Request for Tenancy Approval for an eligible unit within the term of the voucher.

If CMHA denies assistance to the family, CMHA will notify the initial PHA within 30 days and the family will be offered an informal review or hearing.

The CMHA will notify the family of its responsibility to contact the initial PHA if the family wishes to move outside CMHA's jurisdiction under continued portability.

### **Regular Program Functions**

The CMHA will perform all program functions applicable the tenant-based assistance program, such as:

- Annual reexaminations of family income and composition;
- Annual/biennial inspection of the unit; and
- Interim examinations when requested or deemed necessary by the receiving CMHA

### **Terminations**

CMHA will notify the initial PHA in writing of any termination of assistance within 30 days of the termination. If an informal hearing is required and requested by the family, the hearing will be conducted by CMHA, using the regular hearing procedures included in this Plan. A copy of the hearing decision will be furnished to the initial PHA.

The initial PHA will be responsible for collecting amounts owed by the family for claims paid and for monitoring repayment. If the initial PHA notifies CMHA that the family is in arrears or the family has refused to sign a payment agreement, CMHA will terminate assistance to the family.

### **Required Documents**

As receiving PHA, CMHA will require the documents listed on the HUD Portability Billing Form from the initial PHA.

### **Billing Procedures**

As receiving PHA, CMHA will bill the initial PHA monthly for Housing Assistance Payments. The billing cycle for other amounts, including administrative fees and special claims will be monthly unless requested otherwise by the initial PHA.

CMHA will bill 100% of the Housing Assistance Payment, 100% of special claims and the lesser of 80% of the initial PHA's administrative fee or 100% of CMHA's administrative fee for each "portability" voucher leased as of the first day of the month.

CMHA will notify the initial PHA of changes in subsidy amounts and will expect the initial PHA to notify CMHA of changes in the administrative fee amount to be billed.



## **XIV. CHAPTER 14-CONTRACT TERMINATIONS**

### **A. INTRODUCTION**

The Housing Assistance Payments (HAP) contract is the contract between the owner and CMHA which defines the responsibilities of both parties. This chapter describes the circumstances under which the contract can be terminated by CMHA and the owner, and the policies and procedures for such terminations.

### **B. CONTRACT TERMINATION [24 CFR 982.311]**

The initial term of the HAP Contract is 12 months. The contract between the owner and CMHA may be terminated by CMHA, or by the owner or tenant terminating the lease.

No future subsidy payments on behalf of the family will be made by CMHA to the owner after the month in which the contract is terminated. The owner must reimburse CMHA for any subsidies paid by CMHA for any period after the contract termination date.

If the family continues to occupy the unit after the HCVP contract is terminated, the family is responsible for the total amount of rent due to the owner.

After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit.

If the family does not take possession of the unit within 5 days of the effective date of the HAP contract, CMHA may terminate the contract. ("Take possession of the unit" is defined as the family receiving the keys to the unit.) The family must notify CMHA in writing that they did not take possession of the subsidized unit in a timely manner (within 14 days of the effective date of the HAP contract). Failure to do so may cause the family to be proposed for termination.

### **C. TERMINATION BY THE FAMILY: MOVES [24 CFR 982.314(c)(2)]**

Family termination of the lease must be in accordance with the terms of the lease.

### **D. TERMINATION OF TENANCY BY THE OWNER: EVICTIONS**

If the owner wishes to terminate the lease, the owner must provide proper notice as stated in the lease.

During the term of the lease, the owner may not terminate the tenancy except for the grounds stated in HUD regulations.

During the term of the lease the owner may only evict for:

- Serious or repeated violations of the lease, including but not limited to failure to pay rent

or other amounts due under the lease.

- Violations of Federal, State or local laws that impose obligations on the tenant in connection with the occupancy or use of the premises; or criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises or any drug-related criminal activity on or near the premises.

**Other good cause:**

During the initial term of the lease, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do (see 24CFR 982.310).

The owner must provide the tenant a written notice of termination specifying the grounds for termination of tenancy. The owner must serve this notice during the term of the tenancy, and the tenancy does not terminate before this notice is given. This notice is required in addition to any requirements mandated by State or local law.

The owner eviction notice means a notice to vacate, or a complaint, or other initial pleading used under State or local law to commence an eviction action.

Housing Assistance Payments are paid to the owner under the terms of the HAP contract. If the owner has begun eviction and the family continues to reside in the unit, CMHA must continue to make Housing Assistance Payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant. However, if the owner has requested the HAP payments be placed on hold, the landlord may request payment from CMHA at the conclusion of the court proceeding. All requests must be in writing.

CMHA will continue Housing Assistance Payments until the family moves or is evicted from the unit, unless the unit is under abatement or the contract has been cancelled.

An eviction complaint by the owner that results in a settlement between the owner and tenant, a.k.a. "an agreement between the parties" may result in an issuance of a new voucher by CMHA.

If the action is finalized in court, the owner will provide CMHA with the documentation, including notice of the bailiff's move-out date.

CMHA must continue making Housing Assistance Payments to the owner in accordance with the contract as long as the tenant continues to occupy the unit and the contract is not violated. By accepting the monthly payment from CMHA, the owner certifies that the tenant is still in the unit, the rent is reasonable and s/he is in compliance with the contract.

If an eviction is not due to a serious or repeated violation of the lease, and if CMHA has no other grounds for termination of assistance, CMHA may issue a new voucher so that the family can move with continued assistance.

## **Evidence of Criminal Activity**

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity:

- Regardless of arrest or conviction
- Without satisfying the standard of proof used for a criminal conviction

## **E. TERMINATION OF THE CONTRACT BY CMHA**

The HAP contract terminates when:

- The lease terminates,
- When CMHA terminates program assistance for the family,
- When the owner has breached the HAP contract. (See "Owner Disapproval and Restriction," Chapter 16.)
- CMHA may also terminate the contract if funding is no longer available under the ACC.
- The contract will terminate automatically if 180 days have passed since the last Housing Assistance Payment to the owner.

## **Notice of Termination**

When CMHA terminates the HAP contract, CMHA will provide the owner and family with advance written notice of termination of the contract, and the effective date of the termination. In these circumstances, the HAP contract terminates at the end of the calendar month that follows the calendar month in which CMHA gives such notice to the owner and family.

## **Termination of Tenancy Decisions**

If the law and regulation permit the owner to take an action but don't require action to be taken, the owner can decide whether to take the action. Relevant circumstances for consideration include:

- The seriousness of the offense
- The effect on the community
- The extent of participation by household members
- The effect on uninvolved household members
- The demand for assisted housing by families who will adhere to responsibilities
- The effect on the integrity of the program
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action.

During the term of a lease under the voucher program, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause, and an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence. [42 U.S.C. §§ 1437f (d) (B) (ii) and (o) (7) (C).]

Notwithstanding this provision, an owner or manager may bifurcate a lease in order to evict or remove any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant. [42 U.S.C. §§ 1437f(c)(9)(c)(ii), (d)(B), (d)(B)(iii)(II), and (o)(7)(D)(ii).]

### **Exclusion of Culpable Household Member**

The owner may require a tenant to exclude a household member in order to continue to reside in the assisted unit.

### **Consideration of Rehabilitation**

When determining whether to terminate the tenancy for illegal drug use or alcohol abuse, the owner may consider whether the member:

- Is no longer participating
- Has successfully completed a supervised drug or alcohol rehab program
- Has otherwise been successfully rehabilitated

The owner may require the tenant to submit evidence of any of the three (above).

Actions of termination by the owner must be consistent with the fair housing and equal opportunities regulations as stated in 24 CFR 5.105.

## **XV. CHAPTER 15-DENIAL OR TERMINATION OF ASSISTANCE**

### **A. INTRODUCTION**

CMHA may deny assistance for an applicant or terminate assistance for a family because of the family's action or failure to act. CMHA will provide families with a written description of the family obligations under the program, the grounds under which CMHA can deny or terminate assistance, and CMHA's informal hearing procedures. This chapter describes when CMHA is required to deny or terminate assistance, and CMHA's policies for the denial of a new commitment of assistance and the grounds for termination of assistance under an outstanding HAP contract.

A family's has a right to an informal review or informal hearing prior to denial or termination of assistance, or to afford a family the opportunity to question other CMHA determinations. See Chapter 19 Informal Reviews and Hearings.

This section does not limit or affect exercise of CMHA rights and remedies against the owner under the HAP contract, including termination, suspension, or reduction of Housing Assistance Payments, or termination of the HAP contract.

CMHA actions must be consistent with fair housing and equal opportunity regulations in 24 CFR 5.105.

### **B. CMHA DENIAL OR TERMINATION OF ASSISTANCE FOR FAMILY [24 CFR 982.552, 982.553 and 982.554]**

CMHA may deny assistance for an applicant or terminate assistance for a participant under the programs because of the family's action or failure to act as described in 24 CFR 982.552 or 24 CFR 982.553. The provisions of this section do not affect denial or termination of assistance for grounds other than action or failure to act by the family.

Denial of assistance for an applicant may include any or all of the following:

- Denying listing on the CMHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures

Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating Housing Assistance Payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

### **Requirement to Deny Admission or Terminate Assistance**

**Denial: 24 CFR 982.552 and 982.553 Applicants must be denied program assistance for**

**any of the following reasons:**

- 1.) If any member of the family fails to sign and submit consent forms for obtaining information in accordance with 24 CFR part 5, subparts B and F of this title;
- 2.) If a family fails to submit required evidence of citizenship or eligible immigration status;
- 3.) If a family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612;
- 4.) If an applicant or household member has in the previous three (3) years been evicted from federally assisted housing for drug-related criminal activity; however, CMHA may made exceptions pursuant to 24 CFR 982.553 (A) and (B); CMHA may admit if the evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by CMHA or that the circumstances leading to the eviction no longer exist. (For example, the criminal household member has died or is imprisoned);
- 5.) If any household member is currently engaging in illegal use of a drug;
- 6.) If CMHA determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;
- 7.) If CMHA has reason to believe that a household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;
- 8.) If any household member has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing;
- 9.) If any member of the household is subject to a lifetime registration requirement under a state sex offender registration program;

**24 CFR 982.552 and 982.553 Applicants may be denied program assistance for any of the following reasons:**

- 1) If any family member violated any family obligation under the program under 24 CFR 982.551 up to three (3) years before the admission decision;
- 2) If any member of the family has been evicted from federally assisted housing in the last three (3) years;
- 3) If a PHA has ever terminated assistance under the program for any member of the family;
- 4) If any member of the family has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- 5) If the family currently owes rent or other amounts to CMHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 act
- 6) If the family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit or other amounts owed by the family under the

lease;

- 7) If the family breaches an agreement with CMHA to pay amounts owed to a PHA or amounts paid to an owner by a PHA; (CMHA, at its discretion, may offer the family the opportunity to enter an agreement to pay amounts owed to CMHA or amounts paid to an owner by a PHA. CMHA may prescribe the term of the agreement.)
- 8) If the family has engaged in or threatened abusive or violent behavior toward CMHA personnel;
- 9) If the family has engaged in criminal activity or alcohol abuse as described in 24 CFR 982.553;
- 10) If any family member is currently engaged in or has engaged in during a reasonable time before admission, drug related criminal activity, violent criminal activity, or other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises; or other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or a responsibility on behalf of CMHA (including a CMHA employee or a CMHA contractor, subcontractor or agent). (For this provision “reasonable time before admission” is defined as three years after incarceration or court ordered supervision. “Court ordered supervision” means probation and/or any other court ordered requirements. For Chronically Homeless Applicants, “reasonable time before admission” is defined as one year after incarceration or court ordered supervision. VASH Applicants will only be denied admission where the individual is subject to a lifetime registration requirement under a state sex offender registration program.)

**Termination: 24 CFR 982.552 & 982.553 Participants must be terminated from the program for the following reasons:**

- 1.) If any member of the family fails to sign and submit consent forms for obtaining information in accordance with 24 CFR part 5, subparts B and F of this title;
- 2.) If a family fails to submit required evidence of citizenship or eligible immigration status.
- 3.) If a family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612;
- 4.) If a family has been evicted from housing assisted under the program for serious lease violations;
- 5.) If any household member is currently engaging in illegal use of a drug; or a pattern of illegal use of a drug by any household member interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents;
- 6.) If any family member has ever been convicted of drug related criminal activity for

manufacture or production of methamphetamine on the premises of federally assisted housing.

**Participants may be terminated from the program for the following reasons:**

- 1.) If any family member violates any family obligation under the program under 24 CFR 982.551 during the period of the family's current participation;
- 2.) If a family participating in the FSS program fails to comply, without good cause, with the family's FSS contract of participation.
- 3.) If a welfare to work family fails, willfully and persistently, to fulfill its obligations under the welfare to work voucher program;
- 4.) If any member of the family has been evicted from federally assisted housing in the last five (5) years.
- 5.) If a PHA has ever terminated assistance under the program for any member of the family;
- 6.) If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- 7.) If the family currently owes rent or other amounts to CMHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act;
- 8.) If the family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit or other amounts owned by the family under the lease;
- 9.) If the family breaches an agreement with CMHA to pay amounts owed to a PHA or amounts paid to an owner by a PHA; (CMHA, at its discretion, may offer the family the opportunity to enter an agreement to pay amounts owed to a PHA or amounts paid to an owner by a PHA. CMHA may prescribe the terms of the agreement.)
- 10.) If the family has engaged in or threatened abusive or violent criminal behavior toward CMHA personnel;
- 11.) If the family has engaged in criminal activity or alcohol abuse as described in 24 CFR 982.553.



## **VAWA-Violence Against Women Act**

Criminal activity directly relating to domestic violence, dating violence, sexual assault or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of assistance, if the tenant or an affiliated individual is the victim or threatened victim of that domestic violence, dating violence, sexual assault or stalking. [42 U.S.C. §§ 1437f(c) (9) (C) (i) and (d)(1)(B)(iii)(I).]

Notwithstanding this provision, the public housing agency may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without terminating assistance to, or otherwise penalizing, the victim of such violence who is also a tenant or lawful occupant. [42 U.S.C. § 1437f (d) (1) (B) (iii) (II).]

Nothing in this provision may be construed to limit the authority of the Public Housing Agency to terminate voucher assistance to individuals who engage in criminal acts of physical violence against family members or others. [42 U.S.C. § 1437f (o) (20) (D) (i).]

Nothing in this provision may be construed to limit the authority of the Public Housing Agency to terminate assistance to a tenant if the Public Housing Agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property or public housing agency if that tenant is not evicted or terminated from assistance. [42 U.S.C. §§ 1437f(c)(9)(C)(v), (d)(1)(B)(iii)(V), and (o)(20)(D)(iv).]

Where applicable, the owner, manager, or public housing agency may request, in writing that an individual certify via a HUD approved certification form that the individual is a victim of domestic violence, dating violence, or stalking, and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse and meet the requirements set forth in this Plan. Such certification shall include the name of the perpetrator, if known. The individual shall provide such certification within 14 business days after the owner, manager or public housing agency requests such certification. [42 U.S.C. § 1437f (ee) (1) (A).]

An individual may satisfy the certification requirement by:

- 1) providing the requesting owner, manager, or public housing agency with documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of the abuse, in which the professional attests under penalty of perjury (28 U.S.C. § 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, sexual assault or stalking has signed or attested to the documentation;
- 2) producing a Federal, State, tribal, territorial or local police or court record. [42 U.S.C. § 1437f (ee) (1) (C).]

## **C. SCREENING AND EVICTION FOR DRUG ABUSE AND OTHER CRIMINAL ACTIVITY [24 CFR 982.553]**

### **Purpose**

All Federally assisted housing is intended to provide a place to live and raise families, not a place to commit crime, to use or sell drugs or terrorize neighbors. It is the intention of CMHA to fully endorse and implement a policy designed to:

- Help create and maintain a safe and drug-free community.
- Keep program participants free from threats to their personal and family safety.
- Assist families in their vocational/educational goals in the pursuit of self-sufficiency when possible.

### **Administration**

All screening and termination of assistance procedures shall be administered fairly and in such a way as not to violate rights to privacy or discriminate on the basis of race, color, nationality, religion, familial status, disability, sex or other legally protected groups. CMHA only considers felony level criminal activity unless otherwise required in the CFR.

To the maximum extent possible, CMHA may involve other community and governmental entities in the promotion and enforcement of this policy.

### **Prohibiting Admission and Termination of Assistance for Other Criminal Activity**

CMHA prohibits admission to the program and terminates the assistance of families if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program.

In the screening of applicants, and for admissions of new family members for participants, CMHA must perform criminal history background checks necessary to determine whether any household member is subject to a lifetime sex offender registration requirement in the state where the housing is located and in other states where the household members are known to have resided.

CMHA may prohibit admission of a household to the program if CMHA determines that any household member is currently engaged in, or has engaged in during a reasonable time before the admission:

- Felony level drug-related criminal activity (three years)
- Felony level violent criminal activity three years after incarceration and/or release from court ordered supervision (probation) However, applicants for Permanent Supportive Housing, who meet HUD's definition of chronically homeless, may be admitted one year after incarceration and/or court ordered supervision.
- Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity (three years)
- Other criminal activity which may threaten the health and safety of the owner, property

management staff, or persons performing a contract administration function or responsibility on behalf of CMHA, including a CMHA employee or a CMHA contractor, subcontractor, or agent (three years)

Drug-related criminal activity and violent criminal activity must be at the felony level. Any other criminal activity or alcohol abuse as specified in the regulations, may be considered without regard to criminal charges having been filed, but will be considered on the basis of preponderance of the evidence.

“Immediate Vicinity” is defined by CMHA as being within the building or within .50 miles of the subsidized unit.

If CMHA previously denied admission to an applicant because a member of the household engaged in criminal activity, CMHA may reconsider the applicant if CMHA has sufficient evidence that the members of the household are not currently engaged in, and have not engaged in such criminal activity during a reasonable period before the admission decision. “Reasonable period” is defined as three years, after incarceration and/or release from court ordered supervision (probation). However, applicants for Permanent Supportive Housing, who meet HUD’s definition of chronically homeless, may be admitted one year after incarceration and/or court ordered supervision.

CMHA would have “sufficient evidence” if the household member submitted a certification that she or he is not currently engaged in and has not engaged in, such criminal activity during the specified period, and provided supporting documentation from such sources as a probation officer, a landlord, neighbors, social service agency workers, and criminal records, which CMHA verified.

For purposes of this section, a household member is “currently engaged in” criminal activity if the person has engaged in the behavior recently enough to justify a reasonable belief that the behavior is current.

### **Prohibiting Admission of Alcohol Abusers**

CMHA prohibits admission to the program if CMHA determines that it has reasonable cause to believe that a household member’s abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

### **Terminating Assistance for Drug Criminals**

CMHA terminates assistance for a family under the program if CMHA determines that:

- Any household member is currently engaged in any illegal use of a drug; or
- A pattern of illegal use of a drug by any household member interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

CMHA must immediately terminate assistance for a family under the program if CMHA

determines that any member of the household has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of Federally assisted housing.

CMHA terminates assistance under the program for a family if CMHA determines that any family member has violated the family's obligation under 24 CFR 982.551 not to engage in any drug-related criminal activity. CMHA only considers felony level drug activity.

#### **Terminating Assistance for Other Criminals**

CMHA terminates assistance under the program for a family if CMHA determines that any household member has violated the family's obligation under Sec. 982.551 not to engage in violent criminal activity.

#### **Terminating Assistance for Alcohol Abusers**

CMHA terminates assistance under the program for a family if CMHA determines that a household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

Alcohol abuse may be considered without regard to criminal charges having been filed, but will be considered on the basis of preponderance of the evidence.

"Other residents" means persons residing within the building or within .50 miles of the subsidized unit.

#### **Evidence of Criminal Activity**

CMHA may terminate assistance for criminal activity by a household member as authorized in 24 CFR 982.553 if CMHA determines, based on a preponderance of the evidence, that the household member has engaged in the activity, regardless of whether the household member has been arrested or convicted for such activity.

#### **Use of Criminal Record**

If CMHA proposes to deny admission or continued eligibility, due to criminal activity as shown by a criminal record, CMHA must provide the subject of the record and the applicant and/or head of household (as applicable) with a copy of the criminal record used. CMHA must provide the family an opportunity to dispute the accuracy and relevance of the records through the appropriate hearing officer review methods based on their classification (i.e. applicant/participant).

#### **Use of Arrest Record**

Arrest records may not be the sole basis for denying admission, terminating assistance or evicting tenants.

#### **Cost of Obtaining Criminal Record**

CMHA may not pass along to the tenant the costs of a criminal records check.

## Definitions

A **Guest** is a person visiting in the subsidized unit with the consent of the head-of-household or other household member. A guest cannot use the subsidized unit to receive mail or list the address on any photo identification.

Any person not included on the HUD 50058 who has been living in the unit without CMHA approval, will be considered to be living in the unit as an unauthorized occupant.

- Absence from evidence of any other address will be considered in making a determination whether or not the visitor is an unauthorized occupant.
- Statements from neighbors and/or the landlord will be considered in making the determination.
- The use of the subsidized address on court documents, police reports or the use of the subsidized address when reporting to a probation officer, shall be considered in making a determination.
- In a joint custody arrangement, if the minor child or children is/are in the household 182 days or less per year, the minor(s) will be considered to be an eligible visitor(s), and not a family member(s).

CMHA may consider other evidence in addition to that noted above.

**Immediate Vicinity** is defined as being within the building or within .50 miles of the subsidized unit.

**Household**, for the purposes of 24 CFR Part 982 and this chapter, means the family and CMHA-approved live-in-aide.

**Other person under the tenant's control**, for the purposes of the definition of covered person and for 24 CFR Parts 5 and 982 and for this chapter, means that the person, although not staying as a guest (as defined in this chapter) in the unit, is or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the tenant's control.

**Violent criminal activity** means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or reasonably likely to cause, serious bodily injury or property damage.

## **Standard for Violation**

CMHA will deny participation in the program to applicants and terminate assistance to participants in cases where CMHA determines there is reasonable cause to believe that the person is illegally using a controlled substance or if the person abuses alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents, including cases where CMHA determines that there is a pattern of illegal use of a controlled substance or pattern of alcohol abuse.

CMHA will consider the use of a controlled substance or alcohol to be a pattern if there is more than one incident during the previous 12 months.

Engaged or engaging in violent criminal activity means any act within the past 3 years by applicants or participants, household members, or guests which involved felony level criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person of another. However, applicants for Permanent Supportive Housing, who meet HUD's definition of chronically homeless, may be admitted one year after incarceration and/or court ordered supervision. "Court ordered supervision" means probation and/or any other court ordered requirements.

## **Notice of Termination of Assistance**

In any case where CMHA decides to terminate assistance to the family, CMHA must give the family written notice which states:

- The reason(s) for the proposed termination;
- The effective date of the proposed termination;
- The family's right, if they disagree, to request an informal hearing to be held before termination of assistance;
- The date by which a request for an informal hearing must be received by CMHA (within 15 days of the date of the notice).
- Notification of rights under the Violence Against Women Act

CMHA will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance.

## **Required Evidence**

CMHA will use a standard of preponderance of evidence when making a decision to deny or terminate assistance. Preponderance of evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. The intent is not to prove criminal liability, but to establish that the act(s) occurred. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Credible evidence may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence can be considered credible evidence. Other credible

evidence includes, but is not limited to documentation of drug raids or arrest warrants.

CMHA will pursue fact-finding efforts as needed to obtain credible evidence.

CMHA may terminate assistance for criminal activity by a household member under this section if the household member has engaged in the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

### **Confidentiality of Criminal Records**

CMHA will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished.

## **D. FAMILY OBLIGATIONS [24 CFR 982.551]**

- 1.) The family must supply any information that CMHA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR part 5). "Information" includes any requested certification, release or other documentation.
- 2.) The family must supply any information requested by CMHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.
- 3.) The family must disclose and verify Social Security Numbers as provided by 24 CFR part 5, subpart B and must sign and submit consent forms for obtaining information in accordance with 24 CFR part 5, subpart B.
- 4.) All information supplied by the family must be true and complete.
- 5.) The family is responsible for an HQS breach caused by the family as described in 982.404(b).
- 6.) The family must allow CMHA to inspect the unit at reasonable times and after reasonable notice.
- 7.) The family may not commit any serious or repeated violations of the lease.
- 8.) The family must notify CMHA and the owner in writing before the family moves out of the unit, or terminates the lease upon notice to the owner.
- 9.) The family must promptly give CMHA a copy of any owner eviction notice.
- 10.) The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

11.)The composition of the assisted family residing in the unit must be approved by CMHA. The family must promptly inform CMHA, in writing, of the birth, adoption or court-awarded custody of a child.

12.)The family must request CMHA approval, in writing, to add any other family member as an occupant of the unit. No other person (i.e., nobody but members of the assisted family) may reside in the unit (except for a foster child or live-in-aide as provided in paragraph (h) (4) of this section).

13.)The family must promptly notify CMHA in writing if any family member no longer resides in the unit.

14.) If CMHA has given approval, a foster child or a live-in-aide may reside in the unit. CMHA has the discretion to adopt reasonable policies concerning residence by a foster child or live-in-aide, and defining when CMHA consent may be given or denied.

15.)Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family.

16.)The family must not sublease or let the unit.

17.)The family must not assign the lease or transfer the unit.

18.)The family must supply any information or certification requested by CMHA to verify that the family is living in the unit, or relating to family absence from the unit, including any CMHA-requested information or certification on the purposes of family absences. The family must cooperate with CMHA for this purpose. The family must promptly notify CMHA of absence from the unit, in writing.

19.)The family must not own or have any interest in the unit.

20.)The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with the programs.

21.)See 24 CFR 982.551 (l): *Crime by household members*. The members of the household may not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises (see 982.553). Under 24 CFR 5.2005(c)(2), criminal activity directly related to domestic violence, dating violence, sexual assault or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of tenancy, occupancy rights, or assistance of the victim if the tenant or immediate family member of the tenant is the victim.



22.)The members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

23.)An assisted family, or members of the family, may not receive HCVP tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) Federal, State or local housing assistance program.

## **Enforcing Family Obligations**

### **Explanations and Terms**

The term "promptly" when used with the family obligations always means within 30 days. Denial or termination of assistance is always optional except where this Plan or the regulations state otherwise.

### **HQS Breach**

The inspector will determine if an HQS breach as identified in 24 CFR 982.404 (b) is the responsibility of the family. Families may be given extensions to cure HQS breaches by the Manager of Inspections or his/her designee.

### **Lease Violations**

The following criteria will be used to decide if a serious or repeated violation of the lease will result in termination of assistance:

- If the owner terminates tenancy through court action for serious or repeated violation of the lease as evidenced by a court judgment.
- If the owner notifies the family of termination of tenancy for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and CMHA determines that the cause is a serious or repeated violation of the lease based on available evidence. Available evidence may include, but is not limited to police reports.
- Nonpayment of rent is considered a serious violation of the lease, unless the reason for non-payment is covered by State or local law (e.g. rent deposit with a Court).

### **Notification of Eviction**

If the family requests assistance to move and they did not notify CMHA in writing of an eviction within 30 days of receiving the Notice of Lease Termination, the move may be denied.

### **Proposed Additions to the Family**

New family members must meet HUD and CMHA eligibility requirements as enumerated in this plan.

Program participants must report all changes in household composition to CMHA, in writing,

between annual re-examinations. This includes additions due to birth, adoption and court-awarded custody, in which case the family must inform CMHA in writing within 30 days. The family must obtain CMHA approval prior to all other additions to the household. All persons over the age of 18 must pass the criminal background check in order to be added to the family composition.

If any new family member is added, family income must include all income of the new family member. CMHA will conduct a re-examination to determine such additional income and will make the appropriate adjustments in the Housing Assistance Payment and family unit size.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular recertification after moving into the unit.

### **Family Member Moves Out**

Families are required to notify CMHA in writing within thirty (30) days of any family member leaving the assisted household.

### **Limitation on Profit-Making Activity in Unit**

If the business activity results in the inability of the family to use any of the critical living areas, such as a bedroom utilized for a business which is not available for sleeping, the business activity will be considered a program violation.

If CMHA determines that the use of the unit as a business is not incidental to its use as a dwelling unit, it will be considered a program violation.

If CMHA determines the business is not legal, it will be considered a program violation.

### **Interest in Unit**

The owner may not reside in the assisted unit regardless of whether (s)he is a member of the assisted family.

### **Fraud**

In each case, CMHA will consider which family members were involved, the circumstances, and any hardship that might be caused to innocent members.

## **E. DENIAL OF ASSISTANCE TO MOVE [24 CFR 982.314 (e) (2)]**

At any time, CMHA may deny permission to move in accordance with 982.552 (grounds for denial or termination of assistance).

## **F. PROCEDURES FOR NON-CITIZENS [24 CFR 5.514, 5.516, 5.518]**

### **Denial or Termination due to Ineligible Immigrant Status**

Applicant or participant families in which all members are neither U.S. citizens nor eligible immigrants are not eligible for assistance and must have their assistance terminated. CMHA must offer the family an opportunity for a hearing. (See "Eligibility for Admission" chapter,

section on Citizenship/Eligible Immigration Status.)

Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

### **False or Incomplete Information**

When CMHA has clear, concrete, or substantial documentation (such as information from another agency) that contradicts the declaration of citizenship made by an applicant or participant, an investigation will be conducted and the individual will be given an opportunity to present relevant information. CMHA will verify eligible status, then deny, terminate, or prorate as applicable. CMHA may deny or terminate assistance based on the submission of false information or misrepresentation.

### **Procedure for Denial or Termination**

If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with CMHA either after the INS appeal or in lieu of the INS appeal.

After CMHA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable).

## **G. ZERO (\$0) ASSISTANCE TENANCIES**

This section applies only to tenant based vouchers:

When family income reaches a level where no Housing Assistance Payments (HAP) are required, both the HAP contract and the HCVP voucher lease remain in effect, and the family continues to be a participant in the HCVP voucher program for a maximum of 180 days. During this time, the family is responsible for the full amount of rent to the owner. If the family is still in the unit after 180 days, and if there has been no change in circumstance causing HAP payments to resume, the participant will be withdrawn. If, within the 180-day time frame, an owner rent increase or a decrease in the Total Tenant Payment causes the family to be eligible for a Housing Assistance Payment, CMHA will resume assistance payments for the family.

After 120 days at zero HAP, the client will be given written notice including:

- 1) A description of the one hundred and eighty-day (180) rule;
- 2) The family's status relative to the one hundred and eighty-day rule;
- 3) The options available to the family to continue participation in the HCVP Voucher Program; and
- 4) The family's opportunity to meet with CMHA to discuss these options.

In order for a family to move to another unit during the 180 days, the family would have had to reside in the unit for one year, complete its current lease term and the rent for the new unit would have to be high enough to necessitate a Housing Assistance Payment.

#### **H. OPTION NOT TO TERMINATE FOR MISREPRESENTATION [24 CFR 982.551, 982.552(c)]**

If the family has misrepresented any facts that caused CMHA to overpay assistance, CMHA may choose not to terminate and may offer to continue assistance provided that the family executes a Repayment Agreement and makes payments in accordance with the agreement or reimburses CMHA in full according to the requirements of CMHA. Repayment agreements are offered at the discretion of CMHA.

#### **I. MISREPRESENTATION IN COLLUSION WITH OWNER [24 CFR 982.551, 982.552 (c)]**

If the family intentionally, willingly, and knowingly commits fraud or is involved in any other illegal scheme with the owner, CMHA may deny or terminate assistance.

#### **J. MISSED APPOINTMENTS AND DEADLINES [24 CFR 982.551, 982.552 (c)]**

It is a Family Obligation to supply information, documentation, and certification as needed for CMHA to fulfill its responsibilities. CMHA schedules appointments and sets deadlines in order to obtain the required information. The family obligations also require that the family allow CMHA to inspect the unit, and appointments are made for this purpose.

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying CMHA in writing of a documented emergency acceptable to CMHA, may be sent a Notice of Denial or Termination of Assistance for failure to provide required information, or for failure to allow CMHA to inspect the unit.

The family will be given information about the requirement to keep appointments and the number of times appointments will be rescheduled, as specified in this Plan.

Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

- Eligibility for Admission
- Verification Procedures
- Voucher Issuance and Briefings
- Housing Quality Standards (HQS) Inspections
- Recertifications
- Appeals

Acceptable reasons for missing appointments or failing to provide information by deadlines include:

- Medical emergency
- Family emergency or;

- Other circumstances beyond the family's control, as approved by a Supervisor or Manager.

**Procedure when Appointments are missed or information is not provided**

For most purposes in this Plan, the family will be given two opportunities before being issued a notice of termination or denial for breach of a family obligation.

## **XVI. CHAPTER 16-OWNER DISAPPROVAL AND RESTRICTION**

### **A. INTRODUCTION**

It is the policy of CMHA to recruit owners to participate in the voucher program. CMHA will provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of CMHA. The regulations define when CMHA must disallow an owner's participation in the program, and they provide CMHA discretion to disapprove or otherwise restrict the participation of owners in certain categories. This chapter describes the criteria for owner disapproval, and the various penalties for owner violations.

### **B. DISAPPROVAL OF OWNER [24 CFR 982.306, 982.54(d)(8)]**

The owner does not have a right to participate in the program. For purposes of this section, "owner" includes a principal or other interested party.

CMHA may disapprove the owner for the following reasons:

- HUD or other agency directly related has informed CMHA that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.
- HUD has informed CMHA that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other Federal Equal Opportunity requirements and such action is pending.
- HUD has informed CMHA that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other Federal Equal Opportunity requirements.

Unless their lease was effective prior to June 17, 1998, the owner may not be a parent, child, grandparent, grandchild, sister or brother of any family member. CMHA will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

CMHA may, at its discretion, require the family and or owner to certify whether they are related to each other in any way.

The owner has violated obligations under a Housing Assistance Payments contract under HCVP of the 1937 Act (42 U.S.C. 1437f).

The owner has committed fraud, bribery or any other corrupt act in connection with any Federal housing program.

The owner has engaged in drug-related criminal activity or any violent criminal activity.

The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs or with applicable housing standards for units leased with project-based HCVP assistance or leased under any other Federal housing program.

The owner has a history or practice of renting units that fail to meet HQS, State or local housing codes.

The owner has a history or practice of failing to terminate tenancy of tenants who reside in units assisted under HCVP or any other Federally assisted housing program for activity by the tenant, any member of the household, a guest or another person under the control of any member of the household that:

- Threatens the right to peaceful enjoyment of the premises by other residents;
- Threatens the health or safety of other residents, of employees of CMHA, or of owner employees or other persons engaged in management of the housing;
- Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or
- Is drug-related criminal activity or violent criminal activity.

The owner has not paid State or local real estate taxes, fines or assessments.

The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD.

The owner has engaged in or threatened abusive or violent behavior toward CMHA personnel.

Owners will be permanently terminated from participation in the Housing Choice Voucher Program (HCVP) as owner or agent of an owner if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program, specifically mortgage fraud. (24 CFR 982.306(2))

### **C. OWNER RESTRICTIONS AND PENALTIES [24 CFR 982.453]**

If an owner has committed fraud or abuse or is guilty of frequent or serious contract violations, CMHA may restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. CMHA may also terminate some or all contracts with the owner.

Before imposing any penalty against an owner CMHA will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations.

See Program Integrity (Chapter 22) for guidance as to how owner fraud will be handled.

### **D. CHANGE IN OWNERSHIP**

A change in ownership requires assumption of the existing contract.

CMHA will process a change of ownership only upon the written request of the new owner and only if accompanied by a W-9, CMHA Landlord Certification form, and CMHA Transfer of Ownership form.

CMHA may approve the assignment of the HAP contract at the new owner's request. CMHA may deny approval of assignment of the contract, for any of the reasons listed in Section B of this chapter. Ohio law on purchasers of real estate acquiring title subject to the tenant's rights under an existing tenancy is applicable to HCVP voucher tenancies.

Transfer of ownership from a disapproved owner: New owners who seek transfer of ownership of property previously owned by a disapproved owner must be a bonafide purchaser of the property, taking ownership through an arms-length transaction. They must certify that the disapproved owner is not entitled to receive any of the assistance payments. Any owner who is unable to certify will likewise be considered a disapproved owner.



## **XVII. CHAPTER 17-CLAIMS IN THE MODERATE REHABILITATION PROGRAM**

### **A. INTRODUCTION**

This chapter describes CMHA's policies, procedures and standards for servicing contracts in the Moderate Rehabilitation Program.

### **B. OWNER CLAIMS**

Under Moderate Rehabilitation contracts, owners may make "special claims" for damages, unpaid rent, and vacancy loss after the tenant has vacated the unit.

Owner claims for payment for unpaid rent, damages, or vacancy loss will be reviewed for accuracy and completeness and compared with records in the file. CMHA establishes standards by which to evaluate claims, but the burden of proof rests with the owner.

The file will also be reviewed to verify owner compliance at the time the contract was terminated.

CMHA will pay properly filed claims to the owner as a function of the contract, but the family is ultimately responsible to reimburse CMHA for claims paid to the owner. If a claim is filed by a Mod Rehab landlord, the family will be offered an informal hearing in accordance with chapters 15 and 19 of this Administrative Plan, prior to the claim being paid, by notice mailed to the last known address. If CMHA pays the owner's claim, the participant will be required to repay CMHA. If the family does not repay the claim they will be referred to a collection agency.

For units under a Certificate HAP contract effective before October 2, 1995, if the family vacates the unit without proper notice in writing to the owner, the family will be responsible for any vacancy loss paid by CMHA.

If the contract was terminated for owner breach, or the owner was in violation of the contract at the time it was terminated, there will be no entitlement to claims.

### **C. UNPAID RENT**

Unpaid rent only applies to the tenant's portion of rent while the tenant is in residence under the assisted lease. It does not include the tenant's obligation for rent beyond the termination date of the HAP contract.

Separate agreements are not considered a tenant obligation under the lease and CMHA will not reimburse the owner for any claims under these agreements.

### **D. DAMAGES**

All claims for damages must be supported by the actual bills for materials and labor and a copy

of the cancelled checks or other receipts documenting payment along with photos of the damages.

Invoices or bills from individuals providing labor must include their name, address and telephone number.

### **E. VACANCY CLAIMS**

Documentation supporting vacancy claims must be submitted from the Mod Rehab Owner. The owner must have taken reasonable action to fill the vacancy and has not rejected eligible applicants except for good cause.

If the unit remains vacant 30 days after the tenant moved, the owner may request up to 80 percent of the contract rent for the vacancy period not exceeding an additional month, or the expiration of the Lease or Tenancy Agreement, whichever comes first.

### **F. PROCESSING CLAIMS**

Families will be notified when a claim has been made and offered an informal hearing within 30 days.

Any amount owed by the tenant to the owner for unpaid rent or damages will first be deducted from the maximum security deposit which the owner could have collected under the program rules. If the maximum allowable security deposit is insufficient to reimburse the owner for the unpaid tenant rent or other amounts which the family owes under the lease, the owner may request reimbursement from CMHA up to the limits for the program.

If the owner claims vacancy loss, the security deposit that s/he collected or could have collected will be deducted from the vacancy loss claim.

If the family continues to receive housing assistance under another program, CMHA will notify the family in writing of the decision. If it has been determined that the family owes money, CMHA will pursue collection to repay either in a lump sum or through a payment agreement. The notice will warn the family that their assistance may be terminated and they may be denied future participation in the program if they do not reimburse CMHA as required.

Costs of filing an eviction to remove the tenant or any other legal fees may not be reimbursed. No claims will be paid for a unit which is vacant as the result of the landlord voluntarily moving a family to another unit owned by the same landlord.

All unpaid rent, damage, and vacancy loss claim forms must be fully complete when they are submitted, and they must be submitted within 30 days of the date the owner learned of the move-out.

## **XVIII. CHAPTER 18-OWNER OR FAMILY DEBTS TO CMHA**

### **A. INTRODUCTION**

This chapter describes CMHA's policies for the recovery of money which has been overpaid by CMHA for families, and to owners. It describes the methods that will be utilized for collection of money and the guidelines for different types of debts. It is CMHA's— policy to meet the informational needs of owners and families, and to communicate the program rules in order to avoid owner and family debts. Before a debt is assessed against a family, owner, or other interested party, the file must contain documentation to support CMHA's claim that the debt is owed. The file must further contain written documentation of the method of calculation in a clear format for review by the owner, the family or other interested parties.

When families, owners or other interested parties owe money to CMHA, CMHA will make every effort to collect it. CMHA may use a variety of collection tools to recover debts including, but not limited to:

- Civil suits
- Credit bureaus
- Collection agencies
- Income tax off-set programs
- Repayment agreements (applies to families only)
- Reductions in HAP to owner
- Demands for lump sum payments

### **B. FAMILY DEBTS OWED TO CMHA [24 CFR 982.552 (c) (v-vii)]**

A Repayment Agreement (RPA) as used in this Plan is a document entered into between CMHA's HCVP Program and the head of household, and spouse or co-head, when it has been determined that an overpayment of subsidy has been paid. Reasons for overpayment of subsidy include, but are not limited to: unreported income, absence from the unit, dual subsidy, family error, late reporting or unauthorized occupants. The RPA contains details regarding the nature of the debt, the terms of payment, any special provisions of the agreement, and the remedies available to CMHA upon default of the agreement.

CMHA will explain the terms of the RPA, based on the circumstances surrounding the debt to CMHA.

HCVP will not enter into a repayment agreement if:

- The family already has a Repayment Agreement in place, and/or
- The debt amount exceeds the amount allowable to enter into a repayment (\$5,000).

A family must be current on any Repayment Plan before they will be permitted to move to another unit.

Money owed to CMHA HCVP Program shall be repaid by the debtor to and monitored by the CMHA Finance Department.

CMHA is not a party to, nor does it create or negotiate repayment agreements between landlords and participants.

**C. DEBTS OWED TO CMHA FOR CLAIMS [24 CFR 792.103, 982.552 (c) (v-vii)]**

If a family owes money to CMHA:

- CMHA will review the circumstances resulting in the overpayment and decide whether the family must pay the amount in full; or
- CMHA may enter into a Repayment Agreement.

**Late Payments**

A payment will be considered to be in arrears if:

- The payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day.

If the family's repayment agreement is in arrears and the family has not contacted or made arrangements with CMHA, CMHA may:

- Require the family to pay the balance in full
- Pursue civil collection of the balance due
- Terminate the housing assistance
- Grant an extension of 10 business days

**D. DEBTS DUE TO MISREPRESENTATIONS/NON-REPORTING OF INFORMATION [24 CFR 982.163]**

HUD's definition of program fraud and abuse is a single act or pattern of actions that:

Constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and that results in payment of HCVP Program funds in violation of HCVP Program requirements.

**Family Error/Late Reporting**

Families who owe money to CMHA due to the family's failure to report increases in income will be required to repay in accordance with the guidelines in the Repayment Agreement section of this chapter, or to make a lump sum repayment.

**Program Fraud**

Families, owners or other interested parties who owe money to CMHA due to program fraud will be required to repay in accordance with the guidelines in the Payment Agreement section of this

chapter.

If a family, owner or other interested party owes an amount as a result of program fraud, the case may be referred to the Inspector General. Where appropriate, CMHA may refer the case for criminal prosecution.

#### **E. GUIDELINES FOR REPAYMENT AGREEMENTS [24 CFR 792.103]**

Repayment agreements will be executed between CMHA and the family head of household (and co-head or spouse, if applicable). Repayment agreements are offered at the discretion of CMHA.

The repayment agreement must be executed at the supervisory level.

Payments may only be made by money order, certified bank check or acceptable electronic payment methods as defined by CMHA. No cash payments or personal checks will be accepted.

The agreement will be in default when a payment is not made by the due date.

The family may be proposed for termination unless CMHA receives the late payment within 10 business days of the payment due date.

Monthly payments may be decreased in cases of family hardship and if requested with reasonable written notice from the family, verification of the hardship, and approval at the supervisory level. When this occurs, CMHA will generate and execute a new repayment agreement, or an amendment to the existing repayment agreement, with the family.

The family may be given the opportunity to repay the overpayment. The repayment schedule is as follows:

<b>Amount Owed</b>	<b>Down Payment</b>	<b>Term of Repayment</b>
\$0 - \$1,500.99	1/3	3 months
\$1,501 - \$4,999.99	1/3	6 – 12 months

#### **F. OWNER DEBTS TO CMHA [24 CFR 982.453(b)]**

If CMHA determines that the owner has retained housing assistance or claim payments the owner is not entitled to, CMHA may reclaim the amounts from future Housing Assistance Payments or claim payments owed the owner for any units under contract.

If future Housing Assistance Payments or claim payments are insufficient to reclaim the amounts owed, CMHA may:

- Require the owner to pay the amount in full within 30 days.
- Pursue collections through the local court system.
- Restrict the owner from future participation.

## **XIX. CHAPTER 19-INFORMAL REVIEWS AND HEARINGS**

### **A. INTRODUCTION**

The informal review and informal hearing requirements defined in HUD regulations are applicable to applicants and participating families who disagree with an action, decision, or inaction of CMHA. This chapter describes the policies, procedures and standards to be used when families disagree with a CMHA decision. The procedures and requirements are explained for informal reviews and hearings. It is the policy of CMHA to ensure that all families have the benefit of all protections due to them under the law.

### **B. INFORMAL REVIEW PROCEDURES FOR APPLICANTS [24 CFR 982.54(d)(12), 982.554]**

At their request, Informal Reviews are offered to applicants who are denied assistance. The exception is that when an applicant is denied assistance for citizenship or eligible immigrant status, the applicant is entitled to an informal hearing.

When CMHA determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

- The reason(s) they are ineligible;
- The procedure for requesting an informal review if the applicant does not agree with the decision; and
- The time limit for requesting an informal review.
- Notification of their rights under VAWA.

If CMHA proposes to deny admission or continued eligibility, due to criminal activity as shown by a criminal record, CMHA must provide the subject of the record and the applicant and/or head of household (as applicable) with a copy of the criminal record used. CMHA must provide the family an opportunity to dispute the accuracy and relevance of the records through the appropriate hearing officer informal review methods based on their classification (i.e. applicant/participant).

CMHA must provide applicants with the opportunity for an informal review of decisions denying:

- Listing on CMHA's waiting list
- Issuance of a voucher
- Participation in the program
- Assistance under portability procedures

Informal reviews are not required for established policies and procedures and CMHA determinations such as:

- Discretionary administrative determinations by CMHA
- General policy issues or class grievances
- A determination of the family unit size under CMHA subsidy standards

- Refusal to extend or suspend a voucher
- A CMHA determination not to grant approval of the tenancy
- Determination that a unit is not in compliance with HQS
- Determination that a unit is not in accordance with HQS due to family size or composition

### **Procedure for Informal Reviews**

The applicant will be given the option of presenting oral or written objections to the denial of eligibility. Both CMHA and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.

A request for an informal review must be received in writing by the close of the business day, no later than 30 days from the date of CMHA's notification of denial of assistance. The informal review will be scheduled within 30 days from the date the request is received.

The informal review will be conducted via telephone.

The informal review shall be conducted by the Hearing Officer appointed by CMHA who is neither the person who made nor approved the decision, nor a subordinate of that person. CMHA appoints hearing officers who hold the position of Compliance Specialist or other designated position in the CMHA Compliance Department.

A notice of the informal review findings will be provided in writing to the applicant within 30 days after the informal review. It shall include the decision of the Hearing Officer, and an explanation of the reasons for the decision.

All requests for an informal review, supporting documentation, and a copy of the final decision will be retained in the family's file.

### **C. INFORMAL HEARING PROCEDURES FOR PARTICIPANTS [24 CFR 982.555(a-f), 982.54(d)(13)]**

When CMHA makes a decision regarding the eligibility and/or the amount of assistance, participants must be notified in writing. CMHA will give the family prompt notice of such determinations which will include:

- The proposed action or decision of CMHA;
- The reason for the proposed termination;
- The date the proposed action or decision will take place;
- The family's right to an explanation of the basis for CMHA's decision.
- The procedures for requesting a hearing if the family disputes the action or decision;
- The time limit for requesting the hearing.
- Notification of their rights under VAWA.

If CMHA proposes to deny admission or continued eligibility, due to criminal activity as shown by a criminal record, CMHA must provide the subject of the record and/or head of household (as

applicable) with a copy of the criminal record used. CMHA must provide the family an opportunity to dispute the accuracy and relevance of the records through the appropriate hearing officer review methods based on their classification (i.e. participant).

CMHA must provide participants with the opportunity for an informal hearing for decisions related to any of the following CMHA determinations:

- Determination of the family's annual or adjusted income and the computation of the Housing Assistance Payment (including Moderate Rehabilitation families)
- Appropriate utility allowance used from the schedule
- Family unit size determination under CMHA subsidy standards
- Determination to terminate assistance for any reason (including Moderate Rehabilitation families)
- Determination to terminate a family's FSS contract, withhold supportive services, or propose forfeiture of the family's escrow account.

CMHA must always provide the opportunity for an informal hearing before termination of assistance for any of the above reasons.

Informal hearings are not required for established policies and procedures and CMHA determinations such as:

- Discretionary administrative determinations by CMHA
- General policy issues or class grievances
- Establishment of the CMHA schedule of utility allowances for families in the program
- A CMHA determination not to approve an extension or suspension of a voucher term
- A CMHA determination not to approve a unit or lease
- A CMHA determination that an assisted unit is not in compliance with HQS. CMHA must provide hearings for family breaches of HQS because such breaches fall under family obligations.
- A CMHA determination that the unit is not in accordance with HQS because of the family size
- A CMHA determination to exercise or not exercise any right or remedy against the owner under a HAP contract

### **Notification of Hearing**

It is CMHA's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, CMHA will ensure that participants will receive all of the protections and rights afforded by the law and the regulations.

When CMHA receives a request for an informal hearing, a hearing shall be scheduled within 15 days. The notification of hearing will contain:

- The date and time of the hearing;
- The location where the hearing will be held;
- The family's right to bring evidence, witnesses, legal or other representation at the family's expense.



- The right to view any documents or evidence in the possession of CMHA upon which CMHA based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing. Such documents will be made available upon request.

The request for an informal hearing must be received in writing, by the close of the business day no later than 15 days from the date of CMHA's notification of termination of assistance. An exception may be made by CMHA for those families who need a reasonable accommodation or have an emergency that can reasonably be foreseen to prevent them from requesting a hearing within 15 days. The informal hearing will be scheduled within 15 days from the date the request is received.

CMHA may request a copy of any documents or evidence the family will use at the hearing. CMHA will schedule a continuance to allow the family or CMHA to obtain required documents and information, if the request for a continuance is deemed reasonable by the Hearing Officer or Director of Compliance.

### **CMHA's Hearing Procedures**

After a hearing date is scheduled, the family may request to reschedule only upon showing "good cause," which is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

If the family does not attend the hearing and does not contact CMHA to show good cause for not attending the hearing, the termination will become final.

Families have the right to:

- Present written or oral objections to CMHA's determination.
- Examine the documents in the file which are the basis for CMHA's action, and all documents submitted to the Hearing Officer.
- Copy any relevant documents at their expense. In no case will the family be allowed to remove the file from the office.
- Present any information or witnesses pertinent to the issue of the hearing.
- Request that CMHA staff be available or present at the hearing to answer questions pertinent to the case; and
- Be represented by legal counsel, advocate, or other designated representative at their own expense.

In addition to other rights contained in this chapter, CMHA has a right to:

- Present evidence and any information pertinent to the issue of the hearing;
- Be notified if the family intends to be represented by legal counsel, advocate, or another party;
- Examine and copy any documents to be used by the family prior to the hearing;
- Have its attorney present; and
- Have staff persons and other witnesses familiar with the case present.

The informal hearing shall be conducted by the Hearing Officer appointed by CMHA who is neither the person who made nor approved the decision, nor a subordinate of that person. CMHA appoints hearing officers who hold the positions of Compliance Specialist or other designated position in the CMHA Compliance Department.

The hearing shall concern only the issues for which the family has received the opportunity for a hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" includes records and regulations.

The Hearing Officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision.

If the family misses an appointment or deadline ordered by the Hearing Officer, the action of CMHA shall take effect and another hearing will not be granted.

The Hearing Officer will determine whether the action, inaction or decision of CMHA is permissible in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the hearing findings shall be provided in writing to CMHA and the family within 15 days and shall include:

- A clear summary of the decision and reasons for the decision;
- The date the decision goes into effect.

CMHA is not bound by hearing decisions:

- Which concern matters in which CMHA is not required to provide an opportunity for a hearing
- Which conflict with or contradict HUD regulations or requirements;
- Which conflict with or contradict Federal, State or local laws; or
- Which exceed the authority of the person conducting the hearing.

Within 15 days, CMHA shall send a letter to the participant if it determines CMHA is not bound by the Hearing Officer's determination. The letter shall include CMHA's reasons for the decision.

All requests for a hearing, supporting documentation, and a copy of the final decision will be retained in the family's file in accordance with CMHA's Records Retention policy (See Chapter 21).

#### **D. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS" [24 CFR Part 5, Subpart E]**

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on an Immigration and Naturalization Service (INS) appeal.

Assistance to a family may not be terminated or denied while the CMHA hearing is pending but assistance to an applicant may be delayed pending the CMHA hearing outcome.

##### **INS Determination of Ineligibility**

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, CMHA shall notify the applicant or participant within ten days of their right to appeal to the INS within thirty days or to request an informal hearing with CMHA either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give CMHA a copy of the appeal and proof of mailing or CMHA may proceed to deny or terminate. The time period to request an appeal may be extended by CMHA for good cause.

The written request for a CMHA hearing must be made within fourteen days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within fourteen days of receipt of that notice.

After receipt of a written request for an informal hearing, the hearing is conducted as described in this chapter for both applicants and participants. If the Hearing Officer decides that the individual is not eligible, and there are no other eligible family members CMHA will:

- Deny the applicant family;
- Defer termination if the family is a participant and qualifies for deferral;
- Terminate the participant if the family does not qualify for deferral.

If there are eligible members in the family, CMHA will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible.

If all family members fail to provide documentation, the family will be denied or.

Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.

Participants whose assistance is pro-rated (either based on their statement that some members are

ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of tenant rent and Total Tenant Payment.

Families denied or terminated for fraud in connection with the non-citizens rule are entitled to an informal review or hearing in the same way as terminations for any other type of fraud.

#### **E. CONSIDERATION OF CIRCUMSTANCES [24 CFR 982.552(2)(c)(2)]**

When applicants are denied admission to the program, or CMHA is terminating a participant's assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review/hearing process.

In determining whether to deny or terminate assistance because of action or failure to act by members of the family:

- 1.) CMHA may consider all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances relating to the disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.
- 2.) CMHA may impose, as a condition of continued assistance for other family members, a requirement that other family members who participated in or were culpable for the action or failure will not reside in the unit. CMHA may permit the other members of a participant family to continue receiving assistance.
- 3.) In determining whether to deny admission or terminate assistance for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, CMHA may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, CMHA may require the applicant or tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or rehabilitation program or evidence of otherwise having been rehabilitated successfully.
- 4.) If the family includes a person with disabilities, the CMHA decision concerning such action is subject to consideration of reasonable accommodation in accordance with part 8 of 24 CFR.
- 5.) Nondiscrimination limitation and protection for victims of domestic violence, dating violence, sexual assault or stalking: CMHA's admission and termination actions must be consistent with fair housing and equal opportunity provisions of §5.105 of this title, and with the requirements of 24 CFR part 5 subpart L, protection for victims of domestic violence, dating violence, sexual assault or stalking.

#### **F. REASONABLE ACCOMMODATION REQUESTS, REVIEWS, APPEALS AND HEARINGS**

The applicant or participant requesting a reasonable accommodation may complete the

Reasonable Accommodation Packet and submit it to the Section 504/ADA Coordinator. The applicant or participant may include any documentation to substantiate their request.

The Section 504/ADA Coordinator will present the request to the Reasonable Accommodations (RA) Committee that meets regularly. If the RA request is denied, the Section 504/ADA Coordinator will prepare a notice of the denial and send it to the applicant or participant with instructions that a request for an Informal Hearing, appealing the denial, maybe made within 15 days. If the applicant or participant chooses to request a hearing and written notification of this request is received by the Hearing Officer within 15 days of the denial, the applicant or participant and the Section 504/ADA Coordinator will be advised of the hearing date so that both can appear and present their evidence to the Hearing Officer. The Hearing Officer will prepare a written decision to the applicant or participant, Section 504/ADA Coordinator and the HCVP Director within 15 days of the hearing.

## **XX. CHAPTER 20-SPECIAL HOUSING TYPES**

CMHA will permit the use of special housing types in its program.

### **A. SINGLE ROOM OCCUPANCY (SRO) [24 CFR 982.602]**

CMHA will use a separate lease and Housing Assistance Payment contract for each assisted person residing in a SRO. [24 CFR 982.603]

#### **SRO Rent and Housing Assistance Payment (24 CFR 982.604)**

##### **Voucher Program**

The CMHA SRO payment standard is 75 percent of the zero bedroom payment standard schedule. For a person residing in an exception area the payment standard is 75 percent of the HUD approved zero bedroom exception payment standard amount. While an assisted person resides in SRO housing, the SRO payment standard must be used to calculate the Housing Assistance Payment.

**Utility Allowance** The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

**Housing Quality Standards** CMHA will ensure that all SRO units approved for the program are in compliance with all of the Housing Quality Standards for SROs as regulated in 24 CFR 982.605.

### **B. MANUFACTURED HOMES [24 CFR 982.620]**

CMHA will permit a family to lease a manufactured home and space with assistance under the tenant-based program. CMHA will also provide assistance for a family that owns the manufactured home and leases only the space. Rent for manufactured homeowners receiving voucher assistance includes monthly payments made by the household to amortize the cost of purchasing the manufactured home (including any required insurance and property taxes) and tenant-paid utilities.

**Housing Quality Standards** [24 CFR 982.621]A manufactured home must meet all the HQS requirements outlined in the Housing Quality Standards and Inspections chapter and regulated by 24 CFR 982.401. In addition the manufactured home also must meet the following requirements:

A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage.

A manufactured home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist wind overturning and sliding.

## **C. CONGREGATE/SHARED HOUSING**

### **Description**

Congregate/Shared housing is intended for use by elderly persons or persons with disabilities. It contains a shared central kitchen and dining area and a private living area for the individual household of at least a living room, bedroom, and bathroom. Food service for residents must be provided. Shared housing will only be considered, on a case by case basis, based upon social services provided for the residents.

### **Occupancy**

Elderly persons or persons with disabilities may live in congregate/shared facilities. With CMHA approval, a live-in-aide may live in the congregate/shared unit with a person with disabilities or an elderly person. CMHA must approve a live-in-aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

### **HQS**

Housing Quality Standards (HQS) for the Housing Choice Voucher program apply to congregate/shared housing, with the exception of the following alternative requirements:

### **Food Preparation and Refuse Disposal**

Congregate/Shared housing requires:

- A refrigerator of appropriate size in the private living area of each resident;
- Central kitchen and dining facilities located within the premises and accessible to the residents; and
- Food service for the residents that is not provided by the residents themselves.
- The Housing Quality Standards applicable to lead-based paint do not apply.

### **Payment Standard and HAP Calculation**

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size or the pro-rata share of the payment standard for the shared housing unit size. The pro-rata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private space by the total number of bedrooms in the unit.

The HAP for a family in shared housing is the lower of the TTP minus the payment standard or the TTP minus the gross rent. The utility allowance for an assisted family living in shared housing is the pro-rata share of the utility allowance for the shared housing unit.

## **D. PROJECT-BASED VOUCHER ASSISTANCE (24.CFR 983.1)**

### **Purpose**

CMHA provides project-based vouchers (PBV) to expand housing opportunities for low to moderate income families by promoting the development and rehabilitation of low-income housing throughout Cuyahoga County.

The PBV Program attaches rental assistance to housing units that are/will be occupied by households eligible for assistance through the Housing Choice Voucher Program (this differs from tenant-based vouchers in which the assistance is attached to the household and can be taken with the household when they move as long as they remain in good standing). HAP contracts for PBV are for multiple units, which must meet HQS and for which rent determinations must be completed.

The purpose of the project-based voucher program is to encourage property owners to construct new standard housing (New Construction), or to upgrade substandard rental housing stock (Substantial Rehabilitation) and make it available to lower income families in the community, or to encourage the preservation of existing housing (Existing Housing).

The implementing HUD rules for the project-based voucher program are established in 24 CFR Part 983.

### **Selection of PBV Owners**

Units awarded a project-based voucher assistance contract will be selected by a competitive Request for Proposals (RFP), initiated by CMHA in compliance with CMHA's Purchasing Policies and Procedures. CMHA will publicly advertise the RFP in a local newspaper of general circulation. The RFP will identify the number of project-based vouchers being made available, all site selection criteria and deadlines for receipt of proposals.

CMHA will provide public notice of PBV proposal selections, including publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

CMHA will make documentation available for public inspection regarding the basis for CMHA's selection of a PBV proposal.

### **Selection Criteria**

Proposals for project-based voucher assistance may be requested for new or existing structures or structures that will undergo rehabilitation as specified in the RFP. The type of units sought for project-based voucher assistance may have special conditions that are created to achieve a



desired housing outcome for the type of families targeted to receive housing assistance and/or to create affordable housing opportunities in specific geographic areas meeting site selection criteria. Site selection criteria will be specified in the RFP in order to inform prospective bidders of the methodology used to evaluate the proposals. All units awarded project-based voucher assistance must comply with 24 CFR Part 983 regarding eligible housing.

No more than 25 percent of the units in a project may receive project-based voucher assistance. Units in projects consisting of single family buildings do not count against the 25 percent cap, nor do “excepted units” in a multifamily project. “Excepted units” are included under the PBV contract and identified as such. “Excepted units” are units in a multifamily project that are specifically made available for “qualifying families.”

“Qualifying families” means elderly or disabled families or families receiving supportive services, where at least one family member is receiving at least one qualifying supportive service.

These supportive services may include, but are not necessarily limited to:

- After school programs
- Youth leadership development programs
- Training and job readiness programs
- GED preparation and literacy
- Case management
- Personal finance and household budget counseling
- Day care services to enable parents to work or attend school

### **Site Selection Standards**

Project-based voucher assistance at a selected site will be consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities consistent with 24CFR Part 983. The site will be suitable for facilitating and furthering compliance with all Civil Rights and Section 504 regulations. The site will also meet HQS site standards.

### **Award of Project-based Voucher Assistance Contracts**

CMHA shall give prompt written notice of such selection to the party that submitted the proposal and prompt public notice of such selection.

### **HAP Contract Amendments**

At the discretion of CMHA and provided that the 25 percent cap and 20 percent of authorized budget authority are not exceeded, a HAP contract may be amended during the three-year period immediately following the execution date of the HAP contract to add additional PBV contract units in the same project and/or substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit. The amendment is subject to all PBV requirements, including compliance with HQS and determination of rent reasonableness, except that a new PBV RFP is not required. The anniversary and expiration dates of the HAP contract for the additional units must be the same as the anniversary and expiration dates of the HAP contract term for the PBV units originally placed under HAP contract.

Even if contract units are placed under the HAP contract in stages commencing on different dates, there is a single annual anniversary for all contract units under the HAP contract.

### **New Construction and/or Rehabilitated Units**

If CMHA chooses to select a project for rental assistance through the PBV program that includes newly constructed or rehabilitated housing, CMHA will comply with Federal regulations included in 24 CFR 983 Subpart D, Requirements for Rehabilitated and Newly Constructed Units.

### **Occupancy**

CMHA will maintain a General Project-Based Voucher Waiting List, except in the case of projects serving specific populations, in which case, site-based PBV waiting lists will be maintained by CMHA.

The opening and closing of waiting lists and application of preferences will follow the process described in Chapter 3. Admissions and eligibility screening for applicants to the project-based voucher program shall be conducted in accordance with Chapters 2 and 3.

When a PBV unit becomes available, CMHA will refer the first program eligible family from the appropriate waiting list after verifying the family's interest in the PBV housing and after providing a briefing to the family.

All available project-based voucher units will be leased by persons referred from the Project-Based Voucher Waiting List(s). Owners of PBV properties can refer applicants to CMHA for placement onto a PBV waiting list when the Project-Based Voucher Waiting List is open.

The general PBV waiting list may be opened by bedroom size if the number of families on this PBV waiting list is insufficient to promptly refer a sufficient number of families, eligible for that bedroom size, to the owner(s) to fill the vacancies of units currently under PBV contract.

Site-based waiting list(s) may remain open with a preference identified for the segment of the population served by the property. The family will self-certify any preference they claim on the pre-application for the PBV site-based waiting list(s) to which they apply. The family must be qualified as eligible under the rules of the HCVP when the name rises to the top of the waiting list. In addition, any preference claimed by the family will be verified by CMHA at the time of the full application. If the family does not qualify as eligible, the name will be withdrawn from the site-based waiting list. If the family is unable to verify the preference it claims, the name will be returned to the waiting list in the same position it was before the self-certified preference was applied.

When CMHA is notified of a vacancy at a PBV property with a site-based waiting list, it will

send voucher-eligible referrals from the site-based waiting list to the property owner. CMHA will contact the first eligible family with the highest level of preference points on the applicable site-based list in need of the appropriate bedroom size and refer the family to the owner.

If the family refuses the unit, the family will be notified to inform CMHA, in writing, whether or not they wish to be withdrawn from the PBV site-based waiting list. It is the owner's responsibility to screen the referred family for tenancy suitability. If the owner does not offer the family the vacant unit, the owner must document the reason for the refusal to accept the family on a form provided by CMHA. If the family does not meet tenancy suitability, the family will be withdrawn unless there are comparable units (same bedroom size) under other PBV contracts utilizing the same waiting list.

### **Vacancies**

When identified in the project-based contract, and requested by the owner within 14 calendar days of the vacancy, CMHA will provide vacancy payments for periods up to 30 days in an amount not to exceed one month's Housing Assistance Payment (HAP). In order to be eligible for vacancy payments, the owner must:

- Not be at fault for the vacancy
- Work diligently to avoid or minimize the length of any vacancies
- Provide prompt written notification of vacancies. (i.e. this must take place as soon as an owner becomes aware the unit is vacant)
- Submit a CMHA Vacancy Claim Request Form no sooner than the last day of the month following the move-out date. The Vacancy Claim Request Form will be accepted for 14 calendar days from the move out date.

If a unit remains vacant for more than 120 days from the day on which the vacancy notification is received, CMHA will remove it from the PBV contract.

### **Participant Rights and Responsibilities**

Admission, tenant rent contributions, tenancy, annual reexaminations, and Housing Quality Standards and policies for participants will be governed by 24 CFR Parts 982, 983 and this Administrative Plan.

All families living in units under a PBV contract and CMHA must sign a Statement of Family Responsibility. The Statement of Family Responsibility must contain all family obligations including the family's participation in a supportive services plan if applicable.

Voucher issuance and portability are restricted while the family participates in the project-based voucher program. Tenants that wish to vacate the property may request a voucher to convert to the tenant-based program after residing in the project-based unit for at least one year.

If a voucher is not available, the family receives priority for the next available voucher.

The family must give the owner advance written notice (in accordance with the terms of the lease) of intent to vacate. If the family terminates the assisted lease before the end of one year, it

relinquishes the opportunity for the continued tenant-based assistance at that time. Voucher holders must comply with HUD's list of family obligations and Administrative Plan requirements.

CMHA will annually monitor the excepted family's continued participation in the supportive services plan at the family's annual recertification. CMHA will require case management reports from the property owner indicating the family's continued compliance with the terms of the supportive services plan. At CMHA's discretion, it may request additional documentation of compliance with supportive service obligations.

### **Owner Responsibilities**

The owner is responsible for performing all of the owner responsibilities as identified in 24 CFR Part 982.452 and in Part 983, including but not limited to unit maintenance and operation, applicant screening and lease enforcement.

### **CMHA Responsibilities**

CMHA will comply with applicable HUD and CMHA regulations and policies. If CMHA-owned units are selected for project-based voucher assistance, a HUD field office review of the Request for Proposals and selection process will be required, and an independent third party will be identified by CMHA and approved by HUD to conduct rent determinations and HQS inspections.

**Use of HUD VASH Vouchers for Project-Based Voucher Contracts:** At the request of the local VA Medical Center (VAMC), HUD-VASH vouchers may be allocated to Project-Based voucher contracts at the time a PBV contract is executed, with the approval of CMHA. CMHA will not combine HUD-VASH vouchers with regular Project-Based vouchers to provide assistance under the same contract. A PBV contract funded with HUD-VASH vouchers will follow this Administrative Plan in all respects except where waivers or alternative requirements have been determined by HUD.

### **Over-housed, under-housed, and accessible units (24 CFR 983.260)**

If a family is occupying either a wrong-sized unit or one with accessibility features that the family does not require, and the unit is needed by a family that requires those accessibility features, CMHA is responsible for notifying the family and the owner of this determination, and CMHA must offer continued assistance in another unit.

Continued assistance after moving from the unit could include:

- Tenant-based rental assistance

In the situation where CMHA offers the family the opportunity to receive tenant-based rental assistance under the Voucher Program, CMHA must terminate the housing assistance for the wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension that may be granted).

## **E. GROUP HOMES [24 CFR 982.610-982.614]**

An elderly person or a person with disabilities may reside in a State-approved Group Home.

If approved by CMHA, a live-in-aide may reside with a person with disabilities. CMHA may approve a live-in-aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Except for a live-in-aide, all residents of a group home, whether assisted or unassisted, must be elderly persons or persons with disabilities. Persons residing in a Group Home must not require continual medical or nursing care.

Persons who are not assisted under the tenant-based program may reside in a group home.

No more than 12 persons may reside in a group home. This limit covers all persons who reside in the unit, including assisted and unassisted residents and any live-in-aide.

## **F. HOMEOWNERSHIP [24 CFR 982.625]**

The Homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. CMHA maintains a Homeownership Plan that provides detailed procedures on Homeownership Program operations.

CMHA must approve a live-in-aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Participants in the Family Self Sufficiency Program (FSS) with an escrow balance that meets or exceeds the minimum savings requirement shall receive a priority for participation in the Homeownership Program. FSS participants who become participants in the program are graduated from the FSS Program at the end of the month of the transfer of title on the new home.

### **Eligibility Requirements [24 CFR 982.627]**

The family must meet all of the requirements listed below before the commencement of Homeownership assistance:

- Eligible applicants for the HCVP Homeownership Program must have completed an initial HCVP lease term, may not owe CMHA or any other Housing Authority an outstanding debt, and must meet the other eligibility criteria set forth in this Administrative Plan.
- Families must be in full compliance with their lease and HCVP Tenant-based program requirements.  
The family must qualify as a first-time homeowner or may be a co-operative member
- The income limits for the program are in accordance with the annual limits in effect for the current fiscal year.
  - The minimum income required by HUD is the Federal minimum wage multiplied by 2,000 hours. CMHA has adopted a higher minimum income requirement; the

minimum income for CMHA's program eligibility is \$15,000 depending upon family size. (Welfare assistance will be considered in determining income eligibility for families where the head-of-household is elderly or has a disability, as HUD notes that, to the extent applicable, lenders must comply with the Equal Credit Opportunity Act, which prohibits discrimination, including discrimination based upon receipt of public assistance as noted in 15 U.S.C. §1691(a) It shall be unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction, (1) on the basis of race, color, religion, national origin, sex or marital status, or age (provided the applicant has the capacity to contract) (2) because all or part of the applicant's income derives from any public assistance program.)

- The family must meet the Federal minimum employment requirement:
- At least one adult family member who will own the home must be currently employed full time and must have been continuously employed for one year prior to homeownership assistance. HUD regulations define "full-time employment" as not less than an average of 30 hours per week.

The Federal minimum employment requirement does not apply to elderly or disabled families.

Any family member who has previously defaulted on a mortgage obtained through the Homeownership Option is barred from receiving future Homeownership assistance.

### **Homeownership Counseling Requirements [24 CFR 982.630]**

When the family has been determined eligible, they must attend and successfully complete pre-Homeownership counseling sessions. Such counseling shall be consistent with HUD-approved housing counseling.

Counseling shall include:

- Home maintenance (including care of the grounds);
- Budgeting and money management;
- Credit counseling;
- How to negotiate the purchase price of a home;
- How to obtain Homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;
- How to find a home, including information about Homeownership opportunities, schools, and transportation in CMHA's jurisdiction;
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- Information about the Real Estate Settlement Procedures Act (RESPA), State and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions;
- Fair Housing laws.

Families shall attend one post purchase-counseling sessions within the first year of homeownership.

**Eligible Units [24 CFR 982.628]**

The unit must meet all of the following requirements:

- The unit must meet HUD’s “Eligible Housing” requirements. The unit may not be any of the following:
  - A public housing or Indian housing unit;
  - A unit receiving HCVP project-based assistance;
  - A nursing home, board and care home, or facility providing continual psychiatric, medical, or nursing services.
  - A college or other school dormitory;
  - On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
  - The unit is a manufactured home where both the home and land are purchased by the participant.
- Families may enter into contracts of sale for units not yet under construction at the time the family enters into the contract for sale. However, CMHA shall not commence homeownership assistance for the family for that unit, unless and until 1.) The responsible entity completed the environmental review procedures required by 24 CFR part 58, and HUD approved the environmental certification and request for release of funds prior to the commencement of construction; or 2.) HUD performed an environmental review under 24 CFR part 50 and notified CMHA in writing of environmental approval of the site prior to commencement of construction. In addition, CMHA shall not commence homeownership assistance unless and until construction of the unit has been completed and the unit has passed the required HQS inspection and independent inspection.
- The unit is a one-unit property or a single dwelling unit in a cooperative or condominium.
- The unit has been inspected by CMHA and by an independent inspector designated by the family. The CMHA inspection shall occur prior to the independent inspection.
- The unit meets HUD Housing Quality Standards.

CMHA must not approve the seller of the unit if CMHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

**CMHA Search and Purchase Requirements (24 CFR 982.629)**

CMHA has established the maximum time that will be allowed for a family to locate and purchase a home. This deadline is 180 days from the date CMHA issues the special homeownership voucher to the family. The family must locate the home within 120 days of

receipt of the homeownership voucher.

The family must obtain final underwriting approval within the final 60 days before expiration of the voucher.

CMHA will require periodic reports on the family's progress in finding and purchasing a home.

If the family is unable to purchase a home within the maximum time limit, the family will continue to rent under the tenant-based program.

The family may not reapply to the Homeownership Program for 12 months after the Homeownership voucher has expired.

### **Inspection and Contract [24 CFR 982.631]**

The unit must meet Housing Quality Standards, and must also be inspected by an independent professional inspector selected and paid by the family.

The independent inspection must cover major building systems and components. The inspector must be qualified to identify physical defects and report on property conditions, including major building systems and components. These systems and components include, but are not limited to:

- Foundation and structure;
- Housing interior and exterior;
- Roofing;
- Plumbing, electrical, and heating systems.

The independent inspector must not be a CMHA employee or contractor. CMHA will not require the family to use an independent inspector selected by CMHA, but CMHA has established the following standards for qualification of inspectors selected by the family:

- The independent inspector must be licensed, bonded and insured;
- The CMHA inspection shall occur prior to the independent inspection.
- Copies of the independent inspection report will be provided to the family and CMHA. Based on the information in this report, the family and CMHA will determine whether any pre-purchase repairs are necessary.

CMHA may disapprove the unit for homeownership assistance because of information in the report.

The family must enter into a contract of sale with the seller of the unit. A copy of the contract must be given to CMHA. The contract of sale must specify the price and terms of sale, and provide that the purchaser will arrange for a pre-purchase independent inspection of the home.

The contract must also:

- Provide that the purchaser is not obligated to buy the unit unless the inspection is satisfactory;



- Provide that the purchaser is not obligated to pay for necessary repairs; and
- Contain the seller's certification that he or she has not been debarred, suspended or subject to a limited denial of participation.
- Before the commencement of assistance all inspection and sales contingencies must be removed.

### **Financing (24 CFR 982.632)**

The family is responsible for securing financing. CMHA has established financing requirements, and may disapprove proposed financing, or require the lender to reduce the approval amount, if CMHA determines that the proposed mortgage is not affordable.

CMHA will prohibit the following forms of financing:

- Balloon payment mortgages
- Variable interest rate mortgages
- Jumbo and Bridge mortgages

CMHA will not authorize closing the transaction or title transfer until all inspections, sales contingencies, and finance contingencies have been satisfied and removed in writing.

CMHA will require a minimum cash down payment of at least 3% of the purchase price and requires that at least 1% of the purchase price comes from the family's own resources.

CMHA will review this requirement on an individual basis for elderly and families with disabilities; and this requirement may be waived or modified.

Families are required to purchase homeowner's insurance for one year. Subsequent premiums are to be escrowed. In instances where the lender indicates in writing that it does not escrow insurance, CMHA will counsel the family. The real estate taxes are to be escrowed, without exception. Families are required to obtain a copy of their closing documents and have a pre-close consultation to review the entire close package (this includes the appraisal) with a CMHA-selected housing counselor.

### **Continued Assistance [24 CFR 982.633]**

Homeownership assistance may only be paid while the family is residing in the home. The family or lender is not required to refund homeownership assistance for the month when the family moves out.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551(h) and (i).
- The family must supply information to CMHA or HUD as specified in 24 CFR

982.551(b). The family must further supply any information required by CMHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.

- The family must notify CMHA in writing before moving out of the home.
- The family must notify CMHA in writing if the family defaults on the mortgage used to purchase the home.
- No family member may have any ownership interest in any other residential property.

Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the Homeownership Option.

**Maximum Term of Homeownership Assistance [24 CFR 982.634]**

Except in the case of elderly or disabled families, the maximum term of Homeownership assistance is:

- 15 years, if the initial mortgage term is 20 years or longer, or 10 years in all other cases.

The elderly exception only applies if the family qualified as elderly at the start of Homeownership assistance. The disabled exception applies, if at any time during receipt of Homeownership assistance, the family qualifies as disabled. If the family ceases to qualify as elderly or disabled during the course of Homeownership assistance, the maximum term becomes applicable from the date assistance commenced. However, such a family must be afforded at least 6 months of Homeownership assistance after the maximum term becomes applicable.

If the family receives Homeownership assistance for different homes, or from different PHAs, the total is subject to the maximum term limitations.

**Homeownership Assistance Payments and Homeownership Expenses [24 CFR 982.635]**

CMHA will pay the Homeownership assistance payments directly to the participant's designated bank account.

The monthly Homeownership Assistance Payment is the lower of: The Voucher Payment Standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the Homeownership Assistance Payment, CMHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described in this plan for the Housing Choice Voucher program.

Some homeownership expenses are allowances or standards determined by CMHA in accordance with HUD regulations. These allowances are used in determining expenses for all homeownership families and are not based on the condition of the home.

Homeownership expenses include:

- Principal and interest on mortgage debt.

- Mortgage insurance premium, where applicable.
- Taxes and insurance.
- The CMHA utility allowance used for the voucher program.
- The CMHA allowance for routine maintenance costs.
- The CMHA allowance for major repairs and replacements.
- Principal and interest on debt for improvements.

Expenses are established at six cents per square foot for maintenance expenses and six cents per square foot for replacement costs. If the home is a cooperative or condominium, expenses also include operating expenses or maintenance fees assessed by the homeowner association.

**Portability** (24 CFR 982.636, 982.353(b) and (c), 982.552, 982.553)

Subject to the restrictions on portability included in HUD regulations and in Chapter 13 of this plan, the family may exercise portability if the receiving PHA is administering a Voucher Homeownership Program and accepting new homeownership families.

The receiving PHA may absorb the family into its Voucher Program. The initial PHA arranges for housing counseling. The receiving PHA's homeownership policies apply.

If the family elects to discontinue homeownership, the family may move to a new rental unit with continued tenant-based assistance provided the family is in complete compliance with all of the requirements of the Homeownership Program, and no longer has ownership interest or title in the home or any other home. CMHA will not permit portability if the family has defaulted on the mortgage.

**Moving With Continued Assistance** (24 CFR 982.637)

A family receiving Homeownership Assistance may move with continued tenant-based assistance. The family may move with voucher rental assistance or with voucher Homeownership Assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

CMHA will not begin tenant-based rental assistance as long as any family member owns any title or other interest in the prior home or if the family had defaulted on the mortgage.

CMHA prohibits more than one move by the family during any one-year period.

CMHA will deny permission to move with continued rental or Homeownership Assistance if CMHA determines that it does not have sufficient funding to provide continued assistance.

CMHA may require the family to complete additional Homeownership counseling prior to moving to a new unit with continued assistance under the Homeownership Option.

**Denial or Termination of Assistance** (24 CFR 982.638)

Termination of Homeownership Assistance is governed by the policies for the Housing Choice

Voucher Program contained in Chapter 15 of the Administrative Plan. However, the provisions of 24 CFR 982.551 (c) through (j) are not applicable to Homeownership. CMHA may deny or terminate Homeownership Assistance if the family violates or has violated any family obligation under HUD-52649 Statement of Homeowner Obligations.

CMHA will terminate Homeownership Assistance if the family is dispossessed from the home due to a judgment or order of foreclosure.

The family is responsible for the full amount of the mortgage to the lender when the family's income exceeds CMHA's income limits.

After the maximum term becomes applicable, the participant will be withdrawn from the program, unless the family is otherwise eligible to receive Homeownership Assistance.

CMHA will not permit such a family to move with voucher rental assistance.

CMHA will terminate Homeownership Assistance if the family violates any of the family obligations in 24 CFR 982.638.

The family is responsible for the full amount of the mortgage to the lender when the family's portion under the Homeownership Program equals or exceeds the mortgage payments. At the title transfer, if the subsidy amount is zero, the family will be graduated from the HCVP.

All Homeowners entering into a zero HAP homeownership purchase will automatically graduate from the HVCP. The 180 day zero HAP period does not apply.

## **XXI. RECORD RETENTION POLICY**

### **PURPOSE/APPLICABILITY**

#### **A. PURPOSE**

This policy establishes a continuing records management program, in compliance with applicable laws and regulations (Section 149.33 et al of the Ohio Revised Code, State records program and office of administration), providing for the periodic destruction of valueless non-current records and the transfer of valuable non-current records into low-cost record storage space. Adherence to this policy will enhance CMHA's administrative efficiency by allowing the reuse of storage space and filing equipment, while preserving those records that have historical value.

#### **B. APPLICABILITY**

This policy is applicable Authority-wide. Failure of staff to comply with this policy may result in disciplinary action.

#### **C. AREAS OF RESPONSIBILITY**

- 1) The Legal Department is responsible for the overall administration of this policy including compliance with Section 149.33 et al of the Ohio Revised Code providing for retention and distribution of public records.
- 2) Department Directors are responsible for monitoring compliance with the policy and procedure for record retention and disposition within their departments.
- 3) All CMHA employees are responsible for complying with the policy and procedure for record retention and disposition.
- 4) The Legal and Financial Services Department are to act in an advisory role on an ongoing basis as to the appropriateness of retention periods for a specific record

#### **D. GENERAL RECORD RETENTION AND DISPOSAL**

- 1) Notwithstanding any other provision herein, all records must be retained by CMHA and be available for review until after the report on the audit has been received covering the period to which the records pertain and until any findings cited as a result of the audit have been cleared.
- 2) Any records pertaining to claims or demands made by or against CMHA or to any account in which CMHA is concerned, either as a debtor or creditor, will be retained until such claims, demands, and accounts have been settled and adjusted; or until after the expiration of the time specified in the governing statutes of limitations.
- 3) CMHA will retain all records long enough to protect its interests under governing statutes of limitation (as defined in CMHA's Record Retention Procedures); to comply with requirements of State or local laws governing the custody and preservation of official

records; and to meet particular CMHA needs.

## **E. DEFINITIONS OF RECORD RETENTION DOCUMENTATION**

“Records” includes any documents, device, item, regardless of the physical form or characteristic, created or received by CMHA, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of CMHA.

How to determine retention for records created by CMHA:

- 1) A retention period, the lengths of time records are kept, is determined by assessing four values for each record:
  - a. Administrative Value: A record has administrative value if used by the Authority to carry out its duties. Administrative value is based on how often and for how long the record is used by the office personnel and whether a program would be jeopardized upon disposal of the record. Retain records as long as they have administrative value.
  - b. Legal Value: A record has legal value if it documents or protects the rights and obligations of citizens or of the Authority that created it. Retain records having legal value until all the legal rights or obligations expire. The Legal Department should help on this value.
  - c. Fiscal Value: A record has fiscal value if it pertains to the receipt, transfer, payment, adjustment or encumbrance of funds, or if it is required for an audit. Retain records as long as they have fiscal value.
  - d. Historical Value: A record has historical value if it documents an Authority’s organization, policies, decisions, procedures, operations, or other activities; or if it contains significant information about people, places, or events. Retain historical records permanently.
- 2) “Schedule of Records Retention and Disposition” is an internal CMHA document describing the records of the Authority and periods of record retention.
- 3) “Records Officer” is a single person in each department responsible for all aspects of record retention and disposal within a department. The person designated may be the department director or designee; in any case, it should be someone familiar with the overall responsibilities of the department and records it creates and maintains.
- 4) “Certificate of Records Disposal” serves as a notification to the Cuyahoga County Records Commission and to the Ohio Historical Society, State Archives, Local Government Records (LGRP), that CMHA intends to dispose of records. It also provides the Ohio Historical Society and the LGRP the opportunity to select for preservation records that have continuing historical value or provide for other disposition under Section 149.31 of the Ohio Revised Code.
- 5) “Cuyahoga County Records Commission” the functions of the Commission will be to provide rules for retention and disposal of the records of CMHA and to review “Applications For One-Time Disposals Of Obsolete Records” and “Schedule Of Records Retention and Disposition”. The Commission is composed of the President of the Board of County Commissioners, the Prosecuting Attorney, the Auditor, the Recorder, and the Clerk of the Court of Common Pleas.

- 6) "The Ohio Historical Society" is a non-profit organization whose functions include serving as archives administrator for the State and its political subdivisions.

## **F. SCHEDULE OF RECORDS RETENTION AND DISPOSITION**

- 1) Applying the Schedule of Records Retention and Disposition: The Legal Department will prepare and submit to the Cuyahoga County Records Commissions a "Schedule of Records Retention and Disposition" and/or an "Application For One-Time Records Disposal". Upon the Commission's approval, the form(s) will be forwarded by the Commission to the Ohio Historical Society, State Archives, and Local Government Program (LGRP) for approval by the Society and the Auditor of State. Subsequent to these approvals, CMHA can then implement the "Schedule of Records Retention and Disposition".
- 2) Amending the Schedule of Records Retention and Disposition: From time to time it may be appropriate to amend some aspect of this schedule (i.e., whenever a new type of record is maintained by CMHA).

Modification of the Schedule of Records Retention and Disposition is subject to approval by the Ohio Historical Society and the Ohio Auditor of State pursuant to Section 149.33 et al of the Ohio Revised Code. The following procedures are necessary to obtain approval to the Schedule of Records Retention and Disposition:

- a) Amendment to the Schedule of Records Retention and Disposition shall be initiated by the Records Officer who will make a report to the Legal Department.
  - b) The Legal Department will review the request and upon approval, will prepare a Schedule of Records Retention and Disposition and will forward this form to the Cuyahoga County Records Commission (Commission).
  - c) Upon approval from the Cuyahoga County Records Commission, the original of this form will be sent by the Commission to the Ohio Historical Society, LGRP for approval by the Society and the Auditor of State.
  - d) Upon receipt of approval of this form by the Ohio Historical Society and the Ohio Auditor of the State, the Commission will send the amended Schedule of Records Retention and Disposition to the Legal Department. The Legal Department will then distribute the amended Schedule of Records Retention and Disposition. A copy of the retention document will be kept in the files of the Commission as well. The records of the Commission are preserved in the holding of the Cuyahoga County Archives.
- 3) Disposal of Records: Section 149.33 et al of the Ohio Revised Code governs the actual disposal of public records and requires prior notification to the Ohio Auditor of State and the Ohio Historical Society:
    - a. The Records Officer intending to dispose of records will advise the Legal Department in writing describing the nature of the documents, the dates of the records, the intended date of the disposal taken from the Schedule of Records Retention and Disposition and the method of disposition (i.e., burn, shred, to State archives, landfill, etc.).
    - b. Upon receipt of the request, the Legal Department will prepare a Certificate of

#### Records Disposal.

- c. At least 15 days prior to the planned disposition, the Legal Department will send the original to the Commission, in care of the Cuyahoga County Archives. The Commission will preserve a copy of the certificate for its files, and will send the original to the Ohio Historical Society, LGRP. The LGRP will send a copy of the form to the Auditor of the State. The Legal Department is to retain a file copy of the Certificate.
- d. The Legal Department will advise the Records Officer to proceed with the records disposal as proposed on the Certificate if the Legal Department or the Commission has not been contacted by the Ohio Historical Society, LGRP or the Auditor of State by the proposed date of disposal.

### G. STORAGE OF NON-CURRENT RECORDS

Based upon the retention periods in the Schedule of Records Retention and Disposition, non-current records, as determined by the Records Officer and/or the Department Director, will be kept in storage boxes at an off-site storage company. Each Records Officer will be in charge of labeling, numbering, boxing, and sending the non-current records to storage. The label will include a description of the records and inclusive dates. Each Records Officer, on a form supplied by the storage company, should prepare a box-by-box inventory. This form should be placed in the box that is to be stored and the Records Officer should retain a duplicate

Schedule Number	Record Title & Description	Retention Period	Media Type
	CLIENT SERVICES		
	Mod Rehab Contracts		
08-01	Current Mod Rehab Contracts with Owners	Retain hard copy permanently	Paper
08-02	Opt-out Mod Rehab Contracts with Owners	Retain 5yrs, then destroy provided audited	Paper
08-03	Expired Mod Rehab Contracts with Owners	Retain 5yrs, then destroy provided audited	Paper
	Tenant Files-Active-HCVP, Mod Rehab, Project-Based(Cross Reference-Archived Files at 08-56)		
08-04	Photo ID for Head of Household	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-02.	Paper
08-05	Birth Certificates & Social Security Cards for all members	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-	Paper



		03.	
08-06	Preference Verification	Retain original year during active status. Supersedes 02-04.	Paper
08-07	Certification of Section 214 Status (citizenship)	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-05.	Paper
08-08	Certificate of Drug Free Household	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-06.	Paper
08-09	Previous Residency Certification	Retain hard copy during active status. Supersedes 02-07	Paper
08-10	Participant Fraud Certification	Retain hard copy during active status. Supersedes 02-08	Paper
08-11	Portability Certification	Retain hard copy during active status. Supersedes 02-09	Paper
08-12	Original Application	Retain hard copy during active status. Supersedes 02-10	Paper
08-13	Correspondence	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-49	Paper
08-14	Request to Move & Request for Tenancy Approval	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-50	Paper
08-15	Original Voucher	Retain hard copy during active status. Supersedes 02-11	Paper
08-16	Initial Request for Tenancy Approval	Retain hard copy during active status. Supersedes 02-12	Paper
08-17	Referral Authorization Forms	Retain hard copy during active status. Supersedes 02-13	Paper
08-18	Owner Fraud Certification	Retain hard copy during active status. Supersedes 02-16	Paper
08-19	Lead Paint Certification	Retain hard copy during active status. Supersedes 02-17	Paper
08-20	Initial Assisted Lease Agreement	Retain hard copy during active status. Supersedes 02-18	Paper
08-21	Initial HAP Contract (HUD 526/1 & 52535.5)	Retain hard copy during active status. Supersedes 02-19	Paper

08-22	Rent Reasonableness Worksheet & Rent Determination	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-20	Paper
08-23	Latest Unit Inspection (HUD 52580)	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-21	Paper
08-24	Rent Increase Request	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-22	Paper
08-25	Rent Increase Determination	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-23	Paper
08-26	Authorization Request for Release of Tax Form (IRS-4506) for all adult members	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-24	Paper
08-27	Pending Document Form Letter	Retain original year, current year & 3yrs history then destroy, provided audited.	Paper
08-28	Income Documentation	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-26	Paper
08-29	Annual Inspections	Retain original year, current year & 3yrs history, then destroy, provided audited. Supersedes 02-64.	Paper
08-30	Authorization of Release of Information (9886)	Retain original year, current year & 3yrs history then destroy, provided audited.	Paper
08-31	Client Consent Forms	Retain original year, current year & 3yrs history then destroy, provided audited.	Paper
08-32	Background Records Release Forms	Retain original year, current year & 3yrs history then destroy, provided audited.	Paper
08-33	Participant Reassessment Update	Retain original year, current year & 3yrs history then destroy, provided audited.	Paper

08-34	Statement of No Income Form	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-27	Paper
08-35	Employment Verification Form	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-28	Paper
08-36	OWF Forms, formerly known as County Welfare Verification Forms	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-29	Paper
08-37	Child Support/Alimony Verification Form	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-30	Paper
08-38	Income Verification Form	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-31	Paper
08-39	Workers' Compensation Verification Form	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-32	Paper
08-40	Self-Employment Verification Form	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-33	Paper
08-41	Social Security Verification Form	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-34	Paper
08-42	Military Pay Verification Form	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-35	Paper
		Retain original year, current year	
08-43	Public Employee Release Information Form	& 3yrs history then destroy, provided audited. Supersedes 02-36	Paper
08-44	Education Grant Verification Form	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-37	Paper

08-45	CMHA Employee Income Verification Form	Retain original year, current year & 3yrs history then destroy, provided audited. Supersedes 02-38	Paper
	Expenses Verification Information Provided by Family, as applicable		
08-46	Child Care Expenses Verification Form	Retain 3yrs then destroy, provided audited.	Paper
08-47	Support Expense Verification Form	Retain 3yrs then destroy, provided audited.	Paper
08-48	Medical Expense Verification Form	Retain 3yrs then destroy, provided audited.	Paper
08-49	Student Status Verification Form	Retain 3yrs then destroy, provided audited.	Paper
08-50	Participation Data Summary (HUD 50058)	Retain 3yrs then destroy, provided audited.	Paper
	Termination Information		
08-51	Proposal for Termination	Retain 5yrs then destroy provided audited. Supersedes 02-44.	Paper
08-52	Termination Documents	Retain 5yrs then destroy, provided audited. Supersedes 02-45.	Paper
08-53	Other Participant Information	Retain 3yrs then destroy, provided audited.	Paper
08-54	Evictions	Retain 3yrs then destroy, provided audited.	Paper
08-55	Informal Hearing Information(Grievances)	Retain 3yrs then destroy, provided audited.	Paper
	HCVP & Mod Rehab		
08-56	Tenant Files-Inactive	Retain 5yrs then destroy, provided audited.	Paper
08-57	Tenant Files-Inactive with Owing Balances	Retain until balance paid. Supersedes 02-52.	Paper
08-58	Modernization Rental Rehab Approval or Withdraw	Retain entire file 2yrs after modernization cost certificate is approved or withdrawn, then destroy. Supersedes 02-53.	Paper
08-59	Modernization Rental Rehab Disapproval or Withdraw	Retain entire file 2yrs after modernization cost certificate is disapproved or withdrawn, then destroy. Supersedes 02-54.	Paper

08-60	Damage Claim	Retain 2yrs then destroy, provided audited.	Paper
08-61	Quarterly HUD Reports	Retain 5yrs then destroy, provided audited.	Paper
08-62	Annual Inspections	Retain 5yrs then destroy, provided audited.	Paper
	Archive Family File-Active		
08-63	Annual Family Records- years 4 & 5	Retain 5yrs then destroy, provided audited.	Paper
08-64	Annual Owner Records- years 4 & 5	Retain 5yrs then destroy, provided audited.	Paper
	Archive Family File-Terminated		
08-65	Permanent Records- Family & Owner	Retain 5yrs then destroy, provided audited.	Paper
08-66	Annual Records- Family & Owner	Retain 5yrs then destroy, provided audited.	Paper
	FINANCE		
	Landlord Files (Active Owners)		
08-67	Request for Taxpayer ID Number & Certification (IRS-W9)	Retain 5yrs then destroy, provided audited. Supersedes 02- 15.	Paper
08-68	SEMAP Report	Retain hard copy permanently	Paper
08-69	Year End Settlements	Retain 5yrs then destroy, provided audited.	Paper
08-70	Annual Budget Requisitions	Retain 5yrs then destroy, provided audited.	Paper
08-71	HAP Check Register	Retain 5yrs electronically then destroy, provided audited. Supersedes 02-71.	Electronic
08-72	Vendor 1099s	Scan paper copy to electronic file then destroy. Supersedes 02-72	Paper
08-73	Vendor 1099s	Retain 5yrs electronically then destroy, provided audited. Supersedes 02-72.	Electronic
08-74	Voided Checks	Retain 5yrs then destroy, provided audited.	Paper
	HOMEOWNERSHIP		
08-75	Offer to Purchase	Retain 5yrs then destroy, provided audited.	Paper
08-76	Contracts- proposed, offered & executed	Retain 5yrs then destroy, provided audited.	Paper
08-77	Addendums	Retain 5yrs then destroy, provided audited.	Paper

08-78	Contingencies	Retain 5yrs then destroy, provided audited.	Paper
08-79	Copies of Earned Money Deposits	Retain 5yrs then destroy, provided audited.	Paper
08-80	Agency Disclosures	Retain 5yrs then destroy, provided audited.	Paper
08-81	Residential Property & Lead-Based Paint	Retain 5yrs then destroy, provided audited.	Paper
08-82	Mutual Release	Retain 5yrs then destroy, provided audited.	Paper
08-83	Financial Related Documents	Retain 5yrs then destroy, provided audited.	Paper
08-84	Underwriting Documents	Retain 5yrs then destroy, provided audited.	Paper
08-85	Applications	Retain 5yrs then destroy, provided audited.	Paper
08-86	Proposals & Rejections	Retain 5yrs then destroy, provided audited.	Paper
	PROJECT-BASED		
08-87	Owner Proposal-Rejected	Retain 5yrs then destroy, provided audited.	Paper
08-88	Owner Proposal-Denied for Failing Environmental Review &/or Subsidy Layering Review	Retain 5yrs then destroy, provided audited.	Paper
08-89	Owner Contract File	Retain 5yrs after contract concluded then destroy, provided audited.	Paper
08-90	Public Notice of RFP	Retain 5yrs after contract concluded then destroy, provided audited.	Paper
08-91	RFP & Addendum, if appropriate	Retain 5yrs after contract concluded then destroy, provided audited.	Paper
08-92	Proposal from Owner	Retain 5yrs after contract concluded then destroy, provided audited.	Paper
08-93	Documentation of Site Selection	Retain 5yrs after contract concluded then destroy, provided audited.	Paper
08-94	Environmental Review Submission & HUD Approval	Retain 5yrs after contract concluded then destroy, provided audited.	Paper

08-95	Subsidy Layering Review Submission & HUD Approval	Retain 5yrs after contract concluded then destroy, provided audited.	Paper
08-96	Owner Certification of 504 Compliance	Retain 5yrs after contract concluded then destroy, provided audited.	Paper
08-97	HUD 7015.16- Authority to use Grant Funds	Retain 5yrs after contract concluded then destroy, provided audited.	Paper
08-98	Initial Rent Reasonableness	Retain 5yrs after contract concluded then destroy, provided audited.	Paper
08-99	Executed Contract	Retain 5yrs after contract concluded then destroy, provided audited.	Paper
08-100	Contract Addenda	Retain 5yrs after contract concluded then destroy, provided audited.	Paper
08-101	PBV Checklist	Retain 5yrs after contract concluded then destroy, provided audited.	Paper
08-102	Correspondence	Retain 3yrs then destroy, provided audited.	Paper
	APPLICATIONS & CONTRACTING		
08-103	Applicant Files- Denied	Retain 5yrs then destroy, provided audited.	Paper

## **XXII. PROGRAM INTEGRITY**

### **A. INTRODUCTION**

CMHA is committed to assuring that the proper level of benefits is paid to all participating families, and that housing resources reach only income-eligible families so that program integrity can be maintained.

CMHA will take all steps necessary to prevent fraud, waste, and mismanagement so that program resources are utilized judiciously.

This chapter outlines CMHA's policies for the prevention, detection and investigation of program abuse and fraud.

### **B. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD**

Under no circumstances will CMHA undertake an inquiry or an audit of a participating family, owner or other interested party arbitrarily. CMHA's expectation is that participating families and owners will comply with HUD requirements, provisions of the voucher, and other program rules. CMHA staff will make every effort (formally and informally) to orient and educate all families and owners in order to avoid unintentional violations. However, CMHA has a responsibility to HUD, to the Community, and to eligible families in need of housing assistance, to monitor participants and owners for compliance and, when indicators of possible abuse come to CMHA's attention, to investigate such claims.

CMHA will initiate an investigation of a participating family or owner only in the event of one or more of the following circumstances:

- Referrals, Complaints, or Tips. CMHA will follow up on referrals from other agencies, companies or persons which are received by mail, by telephone or in person, which allege that a family or owner is in non-compliance with program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A copy of the allegation will be retained in the case file.
- Internal File Review. A follow-up will be made if CMHA staff discovers (as a function of a certification or recertification, an interim redetermination, or a quality control review), information or facts which conflict with previous file data, CMHA's knowledge of the family or owner, or is discrepant with statements made by the family or owner.
- Verification of Documentation. A follow-up will be made if CMHA receives independent verification or documentation which conflicts with representations in the family's or owner's file (such as public record information, credit bureau reports, or reports from other agencies).



### **C. STEPS CMHA WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD**

CMHA management and staff will utilize various methods and practices (listed below) to prevent program abuse, non-compliance, and willful violations of program rules by applicants, families and owners. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by families and owners.

Review and explanation of Forms - Staff will explain all required forms and review the contents of all documents prior to signature.

Landlord/Tenant Fraud Letters - are returned along with the RFTA packet and indicate acknowledgment of the landlords' and tenants' responsibilities to adhere to program requirements.

### **D. STEPS CMHA WILL TAKE TO DETECT PROGRAM ABUSE AND FRAUD**

CMHA Staff will maintain a high level of awareness to indicators of possible abuse and fraud by assisted families and owners.

**Quality Control File Reviews.** Prior to initial certification, and at the completion of all subsequent recertifications, a random selection of files will be reviewed per year per HUD guidelines. Such reviews shall include, but are not limited to:

- Assurance that verification of all income and deductions is present.
- Authenticity of file documents.
- All forms are correctly dated and signed.

**Observation.** CMHA management and staff (to include inspection personnel) will maintain high awareness of circumstances which may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income.

**Public Record Bulletins** may be reviewed by Management and Staff.

**State Wage Data Record Keepers.** Inquiries to State Wage and Employment record keeping agencies as authorized under Public Law 100-628, the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits.

**Credit Bureau Inquiries.** Credit Bureau inquiries may be made (with proper authorization by the participant) in the following circumstances:

At the time of final eligibility determination

When an allegation is received by CMHA wherein unreported income sources are disclosed.

When a participant's expenditures exceed his/her reported income, and no plausible explanation is given.

## **E. CMHA'S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD**

CMHA staff will encourage all participating families and owners to report suspected abuse to CMHA. All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented and placed in the case file. All allegations, complaints and tips will be carefully evaluated in order to determine if they warrant follow-up. CMHA will not follow up on allegations which are vague or otherwise non-specific. CMHA will only review allegations which contain one or more independently verifiable facts.

File Review: An internal file review will be conducted to determine if the subject of the allegation is a family or owner of CMHA, or other interested party, and, if so, to determine whether or not the information reported has been previously disclosed by the family, owner or other interested party.

It will then be determined if CMHA is the most appropriate authority to do a follow-up (more so than police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

### **Conclusion of Preliminary Review**

If, at the conclusion of the preliminary file review, there is/are fact(s) contained in the allegation which conflict with file data, and the fact(s) are independently verifiable, CMHA will initiate an investigation to determine if the allegation is true or false.

## **F. OVERPAYMENTS TO OWNERS**

If the owner has been overpaid as a result of fraud, misrepresentation or violation of the Contract, CMHA may terminate the Contract and arrange for restitution to CMHA and/or family as appropriate.

CMHA will make every effort to recover any overpayments made as a result of owner fraud or abuse. Payments otherwise due to the owner may be debited in order to repay CMHA or family, as applicable.

## **G. HOW CMHA WILL INVESTIGATE ALLEGATIONS OF ABUSE AND FRAUD**

If CMHA determines that an allegation or referral warrants follow-up, a person designated by the HCVP Director to monitor the program compliance will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below. In all cases, CMHA will secure the written authorization (where necessary) from the family, owner or other interested party for the release of information.

**Credit Bureau Inquiries (CBI).** In cases involving previously unreported income sources, a CBI inquiry may be made to determine if there is financial activity that conflicts with the reported income of the family.

**Verification of Credit.** In cases where the financial activity conflicts with file data, a Verification of Credit form may be mailed to the creditor in order to determine the unreported income source.

**Employers and Ex-Employers.** Employers or ex-employers may be contacted to verify wages which may have been previously undisclosed or misreported.

**Neighbors/Witnesses.** Neighbors and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to CMHA's review.

**Other Agencies.** Investigators, case workers or representatives of other benefit agencies may be contacted.

**Public Records.** If relevant, CMHA will review public records kept in any jurisdictional courthouse. Examples of public records which may be checked are: real estate, marriage, divorce, uniform commercial code financing statements, voter registration, judgments, court or police records, state wage records, utility records and postal records.

**Interviews with Head of Household or Family Members.** CMHA will discuss the allegation (or details thereof) with the Head of Household, family member, owner or other interested party by scheduling an appointment at the appropriate CMHA office or conducting a field interview. A high standard of courtesy and professionalism will be maintained by the CMHA staff person who conducts such interviews. Under no circumstances will inflammatory language, accusation, or any unprofessional conduct or language be tolerated by the management. An additional staff person may attend such interviews, if necessary.

## **H. PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS OBTAINED BY CMHA**

Documents and other evidence obtained by CMHA during the course of an investigation will be considered "case product" and will either be kept in the participant's file, or in a separate "case file." In either case, the participant's file or case file shall be kept in a restricted area. Such cases under review will not be discussed among CMHA staff unless they are involved in the process, or have information which may assist in the investigation.

## **I. CONCLUSION OF CMHA'S INVESTIGATIVE REVIEW**

At the conclusion of the investigative review, the reviewer will report the findings to the HCVP Director or his/her designee, and disclose whether a violation has occurred, a violation has not occurred, or whether the facts are inconclusive.

## **J. EVALUATION OF THE FINDINGS**

If it is determined that a program violation has occurred, CMHA will review the facts to determine:

- The type of violation (procedural, non-compliance, fraud);
- Whether the violation was intentional or unintentional;
- What amount of money (if any) is owed by the family, owner or other interested party;
  - If the family and/or owner are eligible for continued participation in the HCVP Program

In deciding whether to take action against a family or owner or both, CMHA will take into consideration whether the family was in collusion with the owner, or the family was confronted by the owner after the tenancy had begun and was compelled by the owner to make the payments to avoid adverse owner action.

## **K. ACTION PROCEDURES FOR VIOLATIONS WHICH HAVE BEEN DOCUMENTED**

Once a program violation has been documented, CMHA will propose the most appropriate remedy based upon the type and severity of the violation.

- 1) Procedural Non-compliance. This category applies when the family or owner fails to observe a procedure or requirement of CMHA, but does not misrepresent a material fact, and there are no retroactive assistance payments owed by the family or owner. Examples of non-compliance violations are:
  - Failure to appear at a pre-scheduled appointment.
  - Failure to return verification within the time period specified by CMHA.
- 2) Procedural Non-compliance - Overpaid Assistance - Applies when the family owes money to CMHA for failure to report changes that affect the assistance payment.

In all such cases CMHA may send a notice to the family that will include the language that is set forth in the HCVP Plan (see repayment table):

- A description of the non-compliance and the procedure, policy or obligation which was violated.
  - The family has the right to request an informal hearing, including their right to review their file and obtain legal representation at their own expense
- 3) Intentional Misrepresentations. When a family or owner falsifies, misstates, omits or otherwise misrepresents a material fact which results (or would have resulted) in an overpayment of housing assistance by CMHA, CMHA will evaluate whether or not:
    - The family, owner or other interested party had knowledge that his/her actions were wrong, and
    - The family, owner or other interested party willfully violated the program regulations or the law.

**Knowledge that the action or inaction was wrong.** This will be evaluated by determining if the family, owner or other interested party was made aware of program requirements and prohibitions. The person's signature on various documents: the voucher, RFTA, lease, HAP contract, Personal Declaration form, Things You Should Know documents, drug free household statement, and fraud letter are adequate to establish knowledge of wrong-doing.

The family, owner or other interested party willfully violated the law. Any of the following circumstances will be considered adequate to demonstrate willful intent:

- An admission by the family, owner or other interested party of the misrepresentation.
  - That the act was done repeatedly.
  - If a false name, Owner ID or Social Security Number was used.
  - If there were admissions to others of the illegal action or omission
  - That the family, owner or other interested party omitted material facts which were known to him/her (e.g. employment of self or other household members).
  - That the family, owner or other interested party falsified, forged or altered documents
  - That the family, owner or other interested party uttered and certified to statements which were later independently verified to be false.
- 4) Dispositions of Cases Involving Misrepresentations. In all cases of misrepresentations involving efforts to recover monies owed, CMHA may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:
- a. Criminal Prosecution: If CMHA has established criminal intent, and the case meets the criteria for prosecution, CMHA may:
    - i. Refer the case to the local State or District Attorney, notify HUD's Inspector General and terminate rental assistance or remove the owner.
  - b. Administrative Remedies: CMHA may
    - i. Families: Terminate assistance to the family and demand full restitution of payment
    - ii. Permit continued assistance to the family at the correct level and execute a Repayment Agreement in accordance with CMHA policy.
    - iii. Owners: Remove the owner from participation in the Housing Choice Voucher Program and demand full restitution of payment.
    - iv. Remove the owner from participation in the HCVP and pursue restitution through litigation.
- 5) The Case Conference. - When CMHA has established that material misrepresentation(s) have occurred or wishes to clarify discrepancies, a Case Conference may be scheduled with the family representative, owner, or others (referred to as "other interested parties") and the CMHA staff person(s) who is/are most knowledgeable about the circumstances of the case.

The initial conference will take place prior to any proposed action by CMHA. The purpose of such conference is to review the information and evidence obtained by CMHA with the family, owner and/or other interested parties, and to provide them with an opportunity to explain any document findings. Any documents or mitigating circumstances presented will be taken into consideration by CMHA. The family, owner and/or other interested parties will be given up to

30 days to furnish any mitigating evidence.

A secondary purpose of the Case Conference is to assist CMHA in determining the course of action most appropriate for the case. Prior to the final determination of the proposed action, CMHA will consider:

- The duration of the violation and number of false statement
  - The family's, owner's and/or other interested party's ability to understand the rules
  - The family's, owner's and/or other interested party's willingness to cooperate, and to accept responsibility for his/her actions
  - The amount of money involved
  - The family's, owner's and/or other interested party's past history
  - Whether or not criminal intent has been established.
- 6) Notification to Family, Owner and/or Other Interested Party of Proposed Action. CMHA will notify the family, owner and other interested parties of the proposed action.

## **XXIII. GLOSSARY**

### **A. ACRONYMS USED IN SUBSIDIZED HOUSING**

**AAF** Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)

**ACC** Annual contributions contract

**ADA** Americans with Disabilities Act of 1990

**BR** Bedroom

**CDBG** Community Development Block Grant (Program)

**CFR** Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)

**CPI** Consumer price index (published monthly by the Department of Labor as an inflation indicator)

**EID** Earned income disallowance

**EIV** Enterprise Income Verification

**FDIC** Federal Deposit Insurance Corporation

**FHA** Federal Housing Administration

**FICA** Federal Insurance Contributions Act (established Social Security taxes)

**FMR** Fair market rent

**FR** Federal Register

**FSS** Family Self-Sufficiency (Program)

**FY** Fiscal year

**FYE** Fiscal year end

**GAO** Government Accountability Office

**GR** Gross rent

**HAP** Housing assistance payment

**HCV** Housing choice voucher

**HQS** Housing quality standards

**HUD** Department of Housing and Urban Development

**HUDCLIPS** HUD Client Information and Policy System

**IPA** Independent public accountant

**IRA** Individual Retirement Account

**IRS** Internal Revenue Service

**JTPA** Job Training Partnership Act

**LBP** Lead-based paint

**MSA** Metropolitan statistical area (established by the U.S. Census Bureau)

**MTCS** Multi-family Tenant Characteristics System (now the Form HUD-50058 Sub-module of the PIC system)

**MTW** Moving to Work

**NOFA** Notice of funding availability

**OIG** HUD’s Office of Inspector General

**OMB** Office of Management and Budget

**PHA** Public housing agency

**PIC** PIH Information Center

**PIH** (HUD Office of) Public and Indian Housing

**PS** Payment standard  
**QC** Quality control  
**QHWRA** Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)  
**REAC** (HUD) Real Estate Assessment Center  
**RFP** Request for proposals  
**RFTA** Request for tenancy approval  
**RIGI** Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)  
**SEMAP** Section 8 Management Assessment Program  
**SRO** Single room occupancy  
**SSA** Social Security Administration  
**SSI** Supplemental security income  
**TANF** Temporary assistance for needy families  
**TPV** Tenant protection vouchers  
**TR** Tenant rent  
**TTP** Total tenant payment  
**UA** Utility allowance  
**UIV** Upfront income verification  
**URP** Utility reimbursement payment  
**VAWA** Violence Against Women Reauthorization Act of 2013

## **B. GLOSSARY OF SUBSIDIZED HOUSING TERMS**

**Absorption.** In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

**Accessible.** The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

**Adjusted income.** Annual income, less allowable HUD deductions and allowances.

**Administrative fee.** Fee paid by HUD to the PHA for administration of the program. See §982.152.

**Administrative plan.** The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and included as a supporting document to the PHA Plan. See §982.54.

**Admission.** The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

**Amortization payment.** In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

**Annual contributions contract (ACC).** The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

**Annual income.** The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.



**Applicant (applicant family).** A family that has applied for admission to a program but is not yet a participant in the program. (See definition of participant.)

**Area exception rent.** An amount that exceeds the published FMR. See 24 CFR 982.504(b).

**As-paid states.** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

**Assets.** (See net family assets.)

**Auxiliary aids.** Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

**Bifurcate.** With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

**Budget authority.** An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

**Child.** A member of the family other than the family head or spouse who is under 18 years of age.

**Child care expenses.** Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income (e.g. the total amount earned by every adult who works).

**Citizen.** A citizen or national of the United States.

**Co-head.** An individual in the household who is equally responsible for the lease with the head-of-household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

**Common space.** In shared housing, the space available for use by the assisted family and other occupants of the unit.

**Computer match.** The automated comparison of databases containing records about individuals.

**Confirmatory review.** An on-site review performed by HUD to verify the management performance of a PHA.

**Consent form.** Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

**Congregate housing.** Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see 24 CFR 982.606–609.

**Contiguous MSA.** In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

**Continuously assisted.** An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

**Contract authority.** The maximum annual payment by HUD to a PHA for a funding increment.

**Cooperative (term includes mutual housing).** Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type (see 24 CFR 982.619).

**Covered families.** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

**Dating violence.** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

**Dependent.** A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

**Dependent child.** In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of dependent as specified above.

**Disability assistance expenses.** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

**Disabled family.** A family whose head, co-head, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in-aides.

**Disabled person.** See person with disabilities.

**Disallowance.** Exclusion from annual income.

**Displaced family.** A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

**Domestic violence.** Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim

who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

**Domicile.** The legal residence of the household head or spouse as determined in accordance with state and local law.

**Drug-related criminal activity.** As defined in 42 U.S.C. 1437f(f)(5).

**Drug-trafficking.** The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

**Economic self-sufficiency program.** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603(c).

**Elderly family.** A family whose head, co-head, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in-aides.

**Elderly person.** An individual who is at least 62 years of age.

**Eligible family (Family).** A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR.

**Employer identification number (EIN).** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

**Evidence of citizenship or eligible status.** The documents which must be submitted as evidence of citizenship or eligible immigration status. (See 24 CFR 5.508(b).)

**Extremely low-income family (ELI).** A family whose annual income does not exceed the higher of 30 percent of the median income for the area, as determined by HUD, or the federal poverty level.

**Facility.** All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

**Fair Housing Act.** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

**Fair market rent (FMR).** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the Federal Register in accordance with 24 CFR Part 888.

**Family.** Includes but is not limited to the following regardless of actual or perceived sexual orientation, gender identity, or marital status:

- A family, married or unmarried, with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size);
- An elderly family or a near-elderly family
- A disabled family;
- A displaced family

- The remaining family member of a tenant family; and
- A single person who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person.

**Family rent to owner.** In the voucher program, the portion of rent to owner paid by the family.

**Family self-sufficiency program (FSS program).** The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

**Family share.** The portion of rent and utilities paid by the family. For calculation of family share, see 24 CFR 982.515(a).

**Family unit size.** The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

**Federal agency.** A department of the executive branch of the Federal Government.

**Foster child care payment.** A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

**Full-time student.** A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (See 24 CFR 5.603)

**Funding increment.** Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

**Gross rent.** The sum of the rent to owner plus any utility allowance.

**Group home.** A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in-aide). (A special housing type: see 24 CFR 982.610–614.)

**Guest.** A person visiting the subsidized unit with the consent of the head-of-household or other household member. A guest cannot use the subsidized unit to receive mail or list the address on any photo identification. See Chapters 6 and 15 for further guidance.

**Handicap.** Any condition or characteristic that renders a person an individual with handicaps. (See person with disabilities.)

**HAP contract.** The housing assistance payments contract. A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

**Head-of-household.** The adult member of the family who is the head-of-the household for purposes of determining income eligibility and rent.

**Household.** A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in-aides, foster children, and foster adults.

**Housing assistance payment.** The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

**Housing agency (HA).** See public housing agency.

**Housing quality standards (HQS).** The HUD minimum quality standards for housing assisted under the voucher program.

**HUD.** The U.S. Department of Housing and Urban Development.

**Immediate family member.** A spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or any other person living in the household of that person and related to that person by blood and marriage.

**Imputed asset.** An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

**Imputed income.** The HUD passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed \$5,000.

**Imputed welfare income.** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

**Income.** Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

**Income for eligibility. Annual income.**

Income information means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

**Individual with handicaps.** See person with disabilities.

**Initial PHA.** In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

**Initial payment standard.** The payment standard at the beginning of the HAP contract term.

**Initial rent to owner.** The rent to owner at the beginning of the HAP contract term.

**Institution of higher education.** An institution of higher education as defined in 20 U.S.C. 1001 and 1002.

**Jurisdiction.** The area in which the PHA has authority under state and local law to administer the program.

**Landlord.** Either the owner of the property or his/her representative, or the managing agent or his/her representative, as shall be designated by the owner.

**Lease.** A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

**Live-in-aide.** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

**Local Preference.** A preference used by the PHA to select among applicant families.

**Low-Income Family.** A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

**Manufactured home.** A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. (A special housing type: see 24 CFR 982.620 and 982.621.)

**Manufactured home space.** In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624.

**Medical expenses.** Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

**Minor.** A member of the family household other than the family head or spouse, who is under 18 years of age.

**Mixed family.** A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Monthly adjusted income.** One twelfth of adjusted income.

**Monthly income.** One twelfth of annual income.

**Mutual housing.** Included in the definition of cooperative.

**National.** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**Near-elderly family.** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in-aides.

**Net family assets.** (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.

- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not

measurable in dollar terms.

**Noncitizen.** A person who is neither a citizen nor national of the United States.

**Notice of funding availability (NOFA).** For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

**Office of General Counsel (OGC).** The General Counsel of HUD.

**Owner.** Any person or entity with the legal right to lease or sublease a unit to a participant.

**PHA Plan.** The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

**PHA's quality control sample.** An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

**Participant (participant family).** A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

**Payment standard.** The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

**Person with disabilities.** See pages 13 – 15 and 54 of this Administrative Plan. A person with a disability is one who has:

- A physical or mental impairment that substantially limits one or more of the major life activities of an individual;
- A record of such impairment; or
- Regarded as having such an impairment.

Rehabilitated former drug users and alcoholics may be eligible for a reasonable accommodation, however, addiction caused by current illegal use of a controlled substance is not covered. In accordance with 24 CFR 5.403, individuals are not considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence.

The phrase “physical or mental impairment” includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder such as cognitive impairment, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical and mental impairment” includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, cognitive impairment, emotional illness, drug addiction and alcoholism.

“Major life activities” includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

“Has a record of such impairment” means has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.

“Is regarded as having an impairment” is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such

as the PHA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

- Current illegal drug users
- People whose alcohol use interferes with the rights of others
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the HCV program

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the \$400 elderly/disabled household deduction, the \$480 dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses. For purposes of the disabled allowance, a disabled family means:

- 1.) A family whose head (including co-head), spouse, or sole member is a person with a disability. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in-aides.
- 2.) Person with disabilities means a person who:
  - i. Has a disability, as defined in 42 U.S.C. 423;
  - ii. Is determined, pursuant to HUD regulations, to have a physical, mental or emotional impairment that:
    - a. Is expected to be of long-continued and indefinite duration;
    - b. Substantially impedes his or her ability to live independently, and
    - c. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
  - iii. Has a developmental disability as defined in 42 U.S.C. 6001.
- 3.) Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;
- 4.) For purposes of qualifying for low income housing, does not include a person whose disability is based solely on any drug or alcohol dependence.

The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the HCV program, yet an accommodation is needed to provide equal opportunity.

**Portability.** Renting a dwelling unit with a Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

**Premises.** The building or complex in which the dwelling unit is located, including common areas and grounds.

**Previously unemployed.** With regard to the earned income disallowance, a person with



disabilities who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

**Private space.** In shared housing, the portion of a contract unit that is for the exclusive use of an assisted family.

**Processing entity.** The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the HCV program, the “processing entity” is the “responsible entity.”

**Project owner.** The person or entity that owns the housing project containing the assisted dwelling unit.

**Public assistance.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

**Public housing agency (PHA).** Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

**Qualified family (under the earned income disallowance).** A family participating in an applicable assisted housing program or receiving HCV assistance:

- Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

- Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

- Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance--provided that the total amount over a six-month period is at least \$500.

**Qualified census tract.** With regard to certain tax credit units, any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent, and where the census tract is designated as a qualified census tract by HUD.

**Reasonable rent.** A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

**Reasonable accommodation.** A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA’s programs or services.

**Receiving PHA.** In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

**Recertification. Sometimes called reexamination.** The process of securing documentation of

total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

**Remaining member of the tenant family.** The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances.

**Rent to owner.** The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

**Residency preference.** A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area. (See residency preference area).

**Residency preference area.** The specified area where families must reside to qualify for a residency preference.

**Responsible entity.** For the public housing and the Section 8 tenant-based assistance, project-based certificate assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

**Secretary.** The Secretary of Housing and Urban Development.

**Section 8.** Section 8 of the United States Housing Act of 1937.

**Section 8 covered programs.** All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under Section 202 of the Housing Act of 1959.

**Section 214.** Section 214 of the Housing and Community Development Act of 1980, as amended.

**Section 214 covered programs.** The collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR 5.500.

**Security deposit.** A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

**Set-up charges.** In a manufactured home space rental, charges payable by the family for assembling, skirting, and anchoring the manufactured home.

**Shared housing.** A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. (A special housing type: see 24 CFR 982.615–982.618.)

**Single Person.** A person living alone or intending to live alone.

**Single room occupancy housing (SRO).** A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. (A special housing type: see 24 CFR 982.602–982.605.)

**Social security number (SSN).** The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

**Special admission.** Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

**Special housing types.** See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured

home space rental).

**Specified welfare benefit reduction.** Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

**Spouse.** (Use only for proper application of the Noncitizen Rule 24 CFR part 5, subpart E.) Spouse means the partner of the head-of-household, who, in order to dissolve the relationship, would have to obtain a divorce. The term “spouse” does not apply to boyfriends, girlfriends, significant others, or co-heads although these family types are permitted to receive assistance if they otherwise qualify.

**Stalking.** To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

**State wage information collection agency (SWICA).** The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

**Subsidy standards.** Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**Suspension.** Stopping the clock on the term of a family’s voucher after the family submits a request for tenancy approval. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension. This practice is also called tolling.

**Tax credit rent.** With regard to certain tax credit units, the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

**Tenancy addendum.** For the housing choice voucher program, the lease language required by HUD in the lease between the tenant and the owner.

**Tenant.** The person or persons (other than a live-in-aide) who executes the lease as lessee of the dwelling unit.

**Tenant rent to owner.** See family rent to owner.

**Term of lease.** The amount of time a tenant agrees in writing to live in a dwelling unit.

**Total tenant payment (TTP).** The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

**Unit.** Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

**Utility Allowance.** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the

monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

**Utility reimbursement.** In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

**Utility hook-up charge.** In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

**Very low-income family.** A low-income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

**Violent criminal activity.** Any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause or be reasonably expected to cause, serious bodily injury or property damage.

**Voucher (housing choice voucher).** A document issued by a PHA to a family selected for admission to the housing choice voucher program. The voucher states obligations of the family under the program.

**Voucher holder.** A family holding a voucher with an unexpired term (search time).

**Voucher program.** The housing choice voucher program.

**Waiting list admission.** An admission from the PHA waiting list.

**Welfare assistance.** Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the FSS program (984.103(b)), welfare assistance includes only cash maintenance payments from federal or state programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or social security.